

Grayson County  
Deana Patterson  
County Clerk  
Sherman, TX 75090

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STATE OF TEXAS  
COUNTY OF GRAYSON

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Deana Patterson  
County Clerk  
Grayson County, TX

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**STATE OF TEXAS** §  
§ **KNOW ALL PERSONS BY THESE PRESENTS:**  
**COUNTY OF GRAYSON** §

**MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
BEL AIR VILLAGE, SHERMAN, TEXAS**

This Master Declaration of Covenants, Conditions and Restrictions for Bel Air Village, Sherman, Texas (this "**Declaration**") is executed effective as of March 1, 2022, by TERRA PERPETUA, LLC, a Delaware limited liability company (the "**Declarant**"), with consent and joinder of BEL AIR VILLAGE SFR, LLC, a Delaware limited liability company (the "**Residential Owner**").

**RECITALS:**

- A. The Declarant and Residential Owner are collectively all of the owners of the real property in Grayson County, Texas, described on **Exhibit A** attached hereto (the "**Property**"). The Declarant has or is developing the Property as an addition to the City of Sherman, and Grayson County to be known as "Bel Air Village" (the "**Subdivision**"). By its execution below, the Residential Owner acknowledges, consents and agrees to this Declaration as owner of fee title to the portion of the Property owned by it.
- B. The Declarant and Residential Owner desires to establish a mixed-use community of commercial, multi-family, recreational facilities, single family residential townhome and single family detached homes on the Property and, accordingly, has executed this Declaration to impose the covenants, conditions, restrictions, and easements herein described upon the Property.

**ARTICLE 1**

## ESTABLISHMENT

Section 1.1 Establishment of Covenants, Conditions and Restrictions. The Declarant with the acknowledgement, consent and agreement of the Residential Owner with respect to the portion of the Property owned by the Residential Owner, hereby imposes upon the Property the covenants, conditions, restrictions, liens and easements set forth in this Declaration (the “**Covenants**”) for the purposes of establishing a general scheme for development of the Property, enhancing the value of the Lots (defined below) and Buildings (defined below), and establishing restrictions for the Permitted Uses (as defined below) for the benefit of the Declarant, Builders (defined below) and the Owners (defined below). The Declarant does not guarantee that all of these purposes will be accomplished through the creation and imposition of the Covenants. The Covenants touch and concern title to the Property, run with the land and shall be binding upon all persons hereafter acquiring any portion of the Property.

Section 1.2 Definitions. The terms set forth below shall have the indicated meanings when used in this Declaration; other terms are defined elsewhere herein and shall have the meaning given to them in this Declaration.

“**Architectural Control Committee**” or “**Committee**” shall have the meaning assigned to such term in Section 8.1 hereof.

“**Architectural Approval**” shall have the meaning assigned to such term in Section 8.2 hereof.

“**Association**” shall mean and refer to Bel Air Village Master Property Owners Association, Inc., a non-profit corporation formed in the State of Texas in accordance with the Certificate of Formation, Organizational Consent and Bylaws thereof, copies of which are attached hereto as **Exhibit B** and incorporated herein by reference, and as may be amended from time to time in accordance with the terms set forth therein.

“**Board of Directors**” or “**Board**” means the board of directors of the Association. Declarant shall appoint all directors to the Board during the Development Period. From and after the expiration of the Development Period, at least one (1) director on the Board shall be elected by a majority vote of the Members owning, or the Sub-Associations (if formed) applicable to, Residential Lots (the “**Residential Director**”), at least three (3) directors on the Board shall be elected by a majority vote of the Members owning, or the Sub-Associations (if formed) applicable to, the Multi-Family Lots (each a “**Multi-Family Director**”), with the person with the highest percentage of Member votes holding the first Multi-Family Director seat, the person holding the next highest percentage of Member votes holding the second Multi-Family Director seat, and the person with the third highest percentage of Member votes holding the third Multi-Family Director seat, and at least one (1) director on the Board shall be elected by a vote of all of the Members of the Association (the “**At Large Director**”). If the Members owning Residential Lots fail to elect a Residential Director, the President of the Sub-Association for the largest number of Residential Lots shall serve as and be deemed to be the Residential Director for the Association.

“**Builder**” shall mean and refer to any Owner of a Lot or its designee constructing one or more Building(s) or other improvements within a Lot.

“**Building**” shall generally refer to herein to a Townhome Building, a Detached Residence, Multi-Family Building and/or a Flex-Use Building (whether one or more), as the context may require.

“**City**” means the City of Sherman, Texas.

“**Commercial Use**” shall mean any commercial, restaurant, and/or retail, a uses, which may include, without limitation, (i) business service, personal service, or retail service, (ii) office, (iii) general retail, retail specialty or retail trade, (iv) studio uses, (v) museums and/or galleries, (vi) commercial indoor amusement, and/or (vii) restaurants, and coffee shops.

“**Common Area**” means the portion of the Land that is not situated within a Lot and any other property rights within the Land which are known, described or designated for, or which shall subsequently be intended for or devoted to, the common use and enjoyment of the Members. The Common Area may include real property owned by the Association or non-owned property maintained by the Association. The Common Area shall specifically exclude any areas owned and/or maintained by any Sub-Association pursuant to the terms of a Sub-Declaration. The Common Area shall specifically include the easement interest held by the Association in, to and under the Recreational Facility Easement herein granted on, over and through that certain acreage described and/or depicted on **Exhibit D** attached hereto and incorporated herein by reference (the “**Recreational Facility Land**”), provided the Recreational Facilities are constructed thereon, failing which the Recreational Facility Land may be included in the Flex-Use Lot(s) for purposes hereunder. **IN NO EVENT SHALL DECLARANT, OWNER, THE ASSOCIATION, OR ANY BUILDER BE OBLIGATED BY THIS DECLARATION TO CONSTRUCT ANY RECREATIONAL FACILITIES WITHIN THE RECREATIONAL LAND.**

“**Common Improvements**” means those improvements initially made by Declarant within the Common Area, together with such other improvements as may be made hereafter by the Association, including, without limitation, paving and other improvements within private alleys located in the Subdivision. The Common Improvements may include parks, lakes, trails, sculpture, monuments, signs, lighting, medians within public rights-of-way, common landscaping and hardscape improvements, irrigation improvements, and related structures and improvements. The Common Improvements may include, without limitation, the right to use and access of the facilities and improvements constructed by the Recreational Facility Land Owner now or hereinafter from time to time within the Recreational Facility Land (the “**Recreational Facilities**”); provided, however, **IN NO EVENT SHALL DECLARANT, THE ASSOCIATION, ANY OWNER, OR ANY BUILDER BE OBLIGATED BY THIS DECLARATION TO CONSTRUCT ANY RECREATIONAL FACILITIES OR OTHER COMMON IMPROVEMENTS.**

“**Common Properties**” means the Common Area and Common Improvements, collectively.

“**Declarant**” means TERRA PERPETUA, LLC, a Delaware limited liability company, and its successors in interest to the Land through (i) a voluntary disposition of all (or substantially all) of the assets of such entity and/or the voluntary disposition of all (or substantially all) of the right, title and interest of the entity in and to the Land where such voluntary disposition of right, title and interest expressly provides for the transfer and assignment of the rights of such entity as Declarant as provided in Section 13.6 hereof, or (ii) an involuntary disposition of all or any part of the Land owned by such entity as Declarant prior to completion of development of the Land as a mixed-use community. No person or entity purchasing one or more Lots from such entity in the ordinary course of business shall be considered as “Declarant”.

“**Design Guidelines**” shall mean the Bel Air Village Planned Development Design Book last revised July 22, 2020 and adopted on August 5, 2019, revised September 7, 2021 and Administrative Amendments Approved November 30, 2021 attached hereto as **Exhibit C**, as the same may from time to time hereafter be amended, modified, supplemented and/or restated in accordance with the terms of Section 8.2 hereof, together with any and all design guidelines or construction requirements adopted by the Architectural Control Committee now or hereafter from time to time.

“**Detached Residence**” shall mean and refer to any Residence constructed as a single-family detached home on a Detached Residence Lot.

“**Detached Residence Lot(s)**” shall mean and refer to those Lots shown on the Plat and/or Design Guidelines that are intended for development and use of construction of a Detached Residence.

“**Development Period**” means the period of time commencing on the date of this Declaration and continuing through and including the earlier of (i) the date which is seventy-five (75) years after recordation of this Declaration in the Official Public Records of Grayson County, Texas, or (ii) the date of recording in the Official Public Records of Grayson County, Texas, of a notice signed by the Declarant terminating the Development Period.

“**Flex-Use Building**” means and refers to the vertical structure to be constructed on the Flex-Use Lot for use and occupancy for one or more Flex-Use(s).

“**Flex-Use Lot**” shall mean and refer to the Lot(s) located within the Subdivision designated for use by Declarant or the City for any Flex-Use, and may include one or more Flex-Use Buildings for any one or more Flex-Use(s). In the event that the Recreational Facilities are not constructed within the Recreational Facility Land, the Recreational Land may be included as a Flex-Use Lot(s) for purposes of this Declaration. Upon the development of any Flex-Use Lot(s) with any Multi-Family Building(s) for a Multi-Family Use, such Flex-Use Lot(s) shall automatically be Multi-Family Lot(s) for all purposes of this Agreement. Upon the development of any Flex-Use Lot(s) with one or more Residences for a Residential Use, such Flex-Use Lot(s) shall automatically be a Residential Lot(s) for all purposes of this Agreement.

“**Flex-Use**” shall mean one or any combination of Multi-Family Use, School Use, Commercial Use(s), and/or Residential Use(s).

**“Recreational Facility Land Easement”** shall have the meaning ascribed to such term in Section 4.2 hereof.

**“Recreational Facility Land Owner”** shall mean and refer to the owner and record title holder to the Recreational Facility Land, which initially is the Declarant.

**“Residence”** means the improvement located on each Residential Lot that is designed to be or appropriate for use as a single-family residence, together with any garage incorporated therein, whether or not such residence is actually occupied. Residence shall generally refer to any Townhome or Detached Residence.

**“Governmental Requirements”** shall mean any and all laws, ordinances, regulations, requirements, restrictions or other impositions of the City, Grayson County, State of Texas, or federal government, or any agency or department thereof with jurisdiction over the Property, including, without limitation, the PID Restrictions.

**“Land”** means the real property in Grayson County, Texas, described on **Exhibit A**, attached hereto and incorporated herein, and such other real property as may be made subject to the terms of the Declaration in accordance with the provisions hereof.

**“Lot”** means a legally subdivided lot shown as such on the Plat and which is or is intended to be improved with a Residence or Building. Some portions of the Common Area may be platted as one or more “lots” on the Plat, however, such Common Area lots are expressly excluded from the definition of “Lot” as used herein.

**“Managing Agent”** means any individual, corporation, limited liability company, partnership or other entity of any kind or type whatsoever who has been engaged and designated by the Board to manage the daily affairs and operations of the Association.

**“Member”** means an Owner who is a member of the Association.

**“Multi-Family Building”** means and refers to the apartment building to be constructed on the Multi-Family Lot for use and occupancy for one or more Multi-Family Use(s).

**“Multi-Family Lot”** shall mean and refer to the Lot(s) located within the Subdivision designated for use by Declarant or the City for multi-family development and ancillary uses thereto, and may include one or more Multi-Family Building(s) for Multi-Family Use.

**“Multi-Family Use”** shall mean any multi-family uses, which may include, without limitation, (i) high-density multi-family residential, with or without ground floor commercial uses, and/or (ii) Senior/Assisted Living Facilities.

**“Multi-Family Unit”** shall mean a living unit within a Multi-Family Building.

“**Owner**” shall mean and refer to every person or entity who is a record owner of a fee or undivided fee interest in any Lot, including contract sellers. If a Lot is owned in undivided interests by more than one person or entity, each owner shall be an Owner for purposes of this Declaration. A person or entity that owns only a lien or other similar interest in a Lot as security for performance of an obligation is not an Owner with respect to that Lot.

“**Person**” shall mean and refer to any individual, partnership, corporation, limited liability company, trust or other entity.

“**Phase**” or “**Phases**” shall mean and refer any portion of the Property platted and intended for development pursuant to a Plat thereof.

“**PID**” shall mean and refer to the Bel Air Village Public Improvement District, created by PID Act and Resolution No. 6711 of the City Council of the City of Sherman, Texas, on March 15, 2021 for finance certain public improvement projects within the Property.

“**PID Restrictions**” shall mean any covenants, conditions and/or restrictions established against the Property pursuant to or in accordance with the existence, administration, operation and/or maintenance of the PID, and recorded in the Official Public Records of Grayson County, Texas.

“**Plat**” means (i) initially, the preliminary plat, and thereafter the final plat or plats (being one or more), for the Property or any Phase or other portion of the Property submitted to and approved by the City, or any other applicable governmental entity; (ii) after recordation thereof, the final Plat for any Phase or other portion of the Property as recorded in the Official Public Records of Grayson County, Texas; and, (iii) any replat of, or amendment to, the foregoing made by the Declarant, the Owners or the Association in accordance with this Declaration and the applicable requirements of the City or other applicable governmental authority. The term “Plat” shall also include the final recorded plat of any additional property annexed into the Property pursuant to the terms of this Declaration.

“**Property**” means the Land and all improvements thereto, whether now existing or hereafter placed thereon.

“**Residential Lot(s)**” means and refers to any Townhome Lot(s) and/or Detached Residence Lot(s).

“**Residential Use**” shall mean use and occupancy of a Building as an owner occupied Residence, and ancillary or secondary uses in support thereof and residential use of any Residence not occupied but rather leased by an owner to a tenant thereof. Residential Use shall expressly not include the residential use by tenants of units in Multi-Family Buildings constructed on a Multi-Family Lot that are marketed solely for occupancy by renters.

“**School Use**” shall mean and refer to use of any portion of the Property for purposes of a private school, public school, charter school, university, college or other an educational facility, and ancillary uses. **IN NO EVENT SHALL DECLARANT, THE ASSOCIATION, ANY OWNER, OR ANY BUILDER BE OBLIGATED BY THIS DECLARATION TO**

**CONSTRUCT ANY BUILDINGS OR OTHER IMPROVEMENTS FOR ANY SCHOOL USE.**

“**Sub-Association**” means the property owners association created to administer the Lots and any Buildings thereon pursuant to the terms of a Sub-Declaration. The formation of the Sub-Association must be approved in advance and in writing by the Declarant during the Development Period, and a majority of the Board after expiration or termination of the Development Period together with the written consent of Declarant (for as long as Declarant owns any portion of the Property).

“**Sub-Declarant**” means the “Declarant” pursuant to the Sub-Declaration.

“**Sub-Declaration**” means a subordinate declaration of covenants pertaining to the some, but not all Lots which provides for the creation of the Sub-Association and assessments to be levied by the Sub-Association to discharge costs and expenses anticipated to be incurred by the Sub-Association. The Sub-Declaration must be approved in advance and in writing by the Declarant during the Development Period, and a majority of the Board after expiration or termination of the Development Period together with the written consent of Declarant (for as long as Declarant owns any portion of the Property).

“**Townhome**” shall mean and refer to any Residence constructed on a Townhome Lot as a single-family attached residence or townhome.

“**Townhome Building**” shall mean and refer to the structure comprised of two or more Townhomes that (i) is located on two (2) or more Townhome Lots, and (ii) has one (1) or more party walls separating the Townhomes comprising such Townhome Building.

“**Townhome Lot(s)**” shall mean and refer to those Lots shown on any Plat and/or the Design Guidelines that are intended for development and use of construction of a Townhome.

## **ARTICLE II**

### **PROPERTY SUBJECT TO THE DECLARATION**

2.1 **Initial Properties.** The properties that shall initially be subject to this Declaration shall include the Land and all improvements now or hereafter constructed thereon.

2.2 **Addition to Properties.** Additional land may from time to time be made subject to this Declaration during the Development Period. The addition of any such additional land (referred to as “**Adjacent Land**”) to this Declaration may be accomplished by the recordation in the Official Public Records of Grayson County, Texas, of a Supplementary Declaration, signed by Declarant and the owner of such Adjacent Land, which shall extend the scheme of this Declaration to such Adjacent Land, automatically extending the jurisdiction, functions, rights, and duties of Declarant, the Association (including membership therein) and the Architectural Control Committee to the Adjacent Land. In connection with the addition of any such Adjacent Land to this Declaration, Declarant shall have the right to extend then existing streets and other rights-of-way located on the



Land to, through or across such Adjacent Land and to take any other actions which Declarant, in its sole discretion, deems advisable in order to connect such Adjacent Land to any of the Land or otherwise establish or maintain a link between them. If Declarant is not a Member immediately prior to the recordation of a Supplementary Declaration, then upon the recordation of such Supplementary Declaration, Declarant shall become a Class B Member. No consent or approval of the Association or of any Owner shall be required in order to extend the scheme of this Declaration to any Adjacent Land or for Declarant to take any of the actions authorized by this Section. If any Adjacent Land is made subject to this Declaration, then, without the necessity of any further action, such Adjacent Land shall be included within the definition of the Land, and all other terms of this Declaration shall be modified as necessary to extend the coverage of this Declaration to the Adjacent Land. In any such Supplementary Declaration, Declarant and the owner of such Adjacent Land shall have the authority to make any amendments to this Declaration as Declarant and such owner deem advisable in connection with the addition of the Adjacent Land to this Declaration, without the joinder or consent of the Association or of any Owner. Notwithstanding anything to the contrary contained herein, until expiration of the Development Period, this Section 2.2 may not be modified or amended without the express written consent of Declarant.

### ARTICLE III

#### USE OF PROPERTY AND LOTS - PROTECTIVE COVENANTS

The Property and each Lot situated thereon shall be constructed, developed, occupied and used as follows:

3.1 Permitted Uses; Prohibited Uses. (i) Each Townhome Lot and Detached Residence Lot (including land and Residences thereon) shall be used and occupied for Residential Uses only. Each Multi-Family Lot shall be used and occupied for Multi-Family Uses. Any Flex-Use Lot may be used and occupied for any one or more Flex-Use(s).

(ii) Notwithstanding anything to the contrary contained herein or in the Design Guidelines, the following uses are prohibited within any portion of the Property:

- (a) The storage or sale of explosives or fireworks;
- (b) Any distillation or refinery facility (except that a microbrewery or distillery for wines or spirits in connection with a wine bar or other spirits bar shall be permitted);
- (c) Any betting facility;
- (d) Any indecent or pornographic uses, adult bookstore, peepshow store, or any other similar store or club; and any business devoted to sale of articles and merchandise normally used or associated with illegal or unlawful activities, including, without limitation, the sale of paraphernalia used in connection with marijuana, cocaine or other controlled drugs or substances; provided, however, that the restriction does not apply to the sale of any book or magazine that would otherwise be restricted hereby by a place of business selling a general range of

books or the sale or rental of any movies or other media by a place of business selling or renting a general line of movies or other media;

(e) Any massage parlor except that this restriction is not intended to cover any day spas, any spas which are ancillary to a use otherwise permitted hereunder (e.g., spas in hotels, residential buildings, etc.) or to stores offering massages operating in a manner similar to a Massage Envy;

(f) Any tattoo parlors or body piercing business;

(g) Any business which primarily operates as a check cashing facility;

(h) Any pawn shop;

(i) Any commercial laundromat or dry cleaning facility or store, except that laundry facilities in connection with a gym or residential use and “drop off” for dry cleaning (so long as the actual dry cleaning is conducted at a site outside the Project) shall be permitted;

(j) Any automobile body shop or repair operation, including automobile servicing or repair work (e.g., oil change, tire change, body or paint shop, tune up, brake or muffler service);

(k) Any gasoline station, automobile service station or truck stop;

(l) Any mortuary, crematorium or funeral home;

(m) Any storage, display, sale or leasing of new or used trucks, recreation vehicles, mobile homes or large recreational boats (but not including display, sale or leasing of small water crafts such as canoes and kayaks), used car lots, or any sales or leasing of new or used trucks, recreation vehicles or mobile homes within any exterior portion of the Property, or any rental car facility or storage, display or sale of new cars with more than 25 spaces for vehicles in a surface parking lot provided this restriction shall not apply to zip cars, flex cars or similar car programs;

(n) Any second hand store, surplus store or fire sale, bankruptcy sale (unless pursuant to a court order), auction house (other than upscale auction houses) or similar merchandise liquidation operation, provided that outlet stores, antique stores, high quality secondary merchandise stores, and the second-hand sale of books, records, videos, compact discs, computer hardware and software, clothing, and sporting goods, such as, by way of example only, “Kid-to-Kid,” “Play It Again Sports” or “Tuesday Morning,” shall be allowed;

(o) Any veterinarian or veterinary hospital (except that this prohibition shall not prohibit pet shops/stores even if such pet shop/store provides boarding services, a pet “day care,” and/or veterinary services);

(p) Any manufacturing, industrial, warehouse, processing, rendering, distilling (except to the extent permitted under Section 3.1(iii)(b), refining or smelting facility, except for any manufacturing activities associated with a retail use, such as, by way of example only, “Build-a-Bear” or a paint your own pottery use; and

(q) Any excessive quantity of dust, dirt, or fly ash; provided, however, this restriction (q) does not apply to any construction within the Property performed in accordance with the requirements of this Declaration.

3.2 Further Subdivision; Replatting; Sub-Associations and Sub-Declarations. (a) The Declarant or subsequent Owner of any Multi-Family Lot or any Flex-Use Lot may subdivide the Multi-Family Lot or Flex-Use Lot, as applicable, by establishing a condominium regime thereon in accordance with Chapter 82, *et seq.* of the Texas Property Code (the Texas Uniform Condominium Act) ("**TUCA**") that is subordinate to this Declaration, and thereby creating two or more condominium units and related restrictive covenants thereon to facilitate the separate ownership of portions of the Building or Buildings constructed on such Multi-Family Lot or Flex-Use Lot, in which event (i) the condominium association governing the Multi-Family Lot or Flex-Use Lot, or authorized representative thereof, shall be entitled to exercise (or by covenants, conditions and restrictions established for such condominium shall be entitled to delegate to the members of the condominium association) the rights of the "Owner" of the Multi-Family Lot or Flex-Use Lot, as the case may be, hereunder collectively for all owners of condominium units within the such Lot, and no individual condominium unit owner shall be entitled to exercise such rights, and (ii) all owners of condominium units on the Multi-Family Lot or Flex-Use Lot, as the case may be, shall be jointly and severally liable for the duties and obligations of the "Owner" of the such Lot hereunder. Except as provided in the preceding sentence, no Lot shall be resubdivided; provided, however, that Declarant shall have and reserves the right, at any time, or from time to time, to file a replat of the Plat or a portion thereof to effect a reconfiguration of any Lots in the Property then owned by Declarant, and subject to obtaining any necessary approval, joinder or consent of the appropriate county and/or municipal authorities. The consent or approval of Owners other than Declarant shall not be required for such replatting.

(b) The Owner of any Lot, as a Sub-Declarant, may (but is in no way obligated to) establish the Sub-Declaration and the Sub-Association for a portion of the Property owned by such Owner by recordation of such Sub-Declaration in the Official Public Records of Grayson County, Texas. The creation of the Sub-Association and establishment of the Sub-Declaration will not modify any obligations, limitations, rights, benefits or burdens established by this Declaration, except as may otherwise be expressly provided herein. The Sub-Declaration, as approved by Declarant and/or the Board, may provide for the performance of certain rights and/or obligations of the Declarant and/or the Association by the Sub-Declarant named in such Sub-Declaration or the Sub-Association. The terms and provisions of the Sub-Declaration and/or governing documents of the Sub-Association, together with any modifications, supplements and/or amendments thereto, are subject to the review and approval of the Declarant in advance and in writing during the Development Period, and thereafter by the Board with Declarant's approval for as long as Declarant owns any portion of the Property, which approval of Declarant and/or the Board may be withheld in the Declarant's or Board's, as applicable, sole and absolute discretion. The Sub-Declaration (and/or any modifications, supplements and/or amendments thereto that conflict with the terms of this Declaration), filed in the Official Public Records of Grayson County, Texas, against all or any portion of the Property which has not been approved by Declarant or the Board, as evidenced by Declarant and/or an officer of the Association indicating Board approval of such Sub Declaration, as applicable, shall be void and of no force or effect.

3.3 Combining Lots. Any person owning two or more adjoining Lots designated hereunder for Residential Use only may consolidate such Lots into a single building location for the purpose of constructing one (1) Residence thereon (the plans and specifications therefor being approved as set forth in this Declaration) and such other improvements as are permitted herein; provided, however, any such consolidation must comply with the rules, ordinances and regulations of any governmental authority having jurisdiction over the Property. In the event of any such consolidation, the consolidated Lots shall be deemed to be a single Lot for purposes of applying the provisions of this Declaration; provided, however, such Owner shall continue to pay assessments on such Lots as if such Lots had not been consolidated and shall be entitled to one vote for each Lot (determined prior to such consolidation) owned by such Owner. Any such consolidation shall give consideration to easements as shown and provided for on the Plat and any required abandonment or relocation of any such easements shall require the prior written approval of Declarant, during the Development Period, or the Association thereafter, as well as the prior written approval of the City or any utility company having the right to the use of such easements.

3.4 Drainage.

(a) Neither the Declarant nor its successors or assigns, shall be liable for, and each Owner hereby waives any right of recovery against Declarant, its successors and assigns for any loss of, use of, or damage done to, any shrubbery, trees, flowers, improvements, fences, sidewalks, driveways, or buildings of any type or the contents thereof on any Lot caused by any water levels, rising waters, or drainage waters.

(b) After completion of construction of a Building on a Lot, the Owner of such Lot shall cause such Lot to be graded so that surface water will flow to streets, alleys, drainage easements, or Common Properties. Such grading shall be in conformity with the general drainage plans for the Subdivision approved by the City. It shall be the responsibility of each Owner to maintain or modify, if necessary, the drainage characteristics of its Lot so that storm water runoff from such Lot will not run across or collect upon any adjacent Lot. If a retaining wall or underground drainage improvements are necessary to control and prevent drainage from one Lot onto an adjacent Lot, it shall be the responsibility of the Owner of the Lot having the higher surface elevation to construct and maintain the retaining wall or underground drainage improvements, which shall be subject to the approval of the Architectural Control Committee.

3.5 Dirt Removal. The digging of dirt or the removal of any dirt from any Lot is prohibited, except as necessary in conjunction with landscaping or construction of improvements thereon.

3.6 Utilities. All utilities shall be installed underground. Each Building situated on a Lot shall be connected to the water and sewer lines as soon as practicable. No individual water supply system shall be permitted on any Lot. No privy, cesspool, or septic tank shall be placed or maintained upon or in any Lot. However, portable toilets will be allowed during building construction. The installation and use of any propane, butane, liquid petroleum gas or other gas tank, bottle or cylinder of any type (except portable gas grills) shall require the explicit, itemized approval of the Architectural Control Committee, and, if so approved, the Architectural Control Committee may require that such tank, bottle or cylinder be installed underground. Any control

boxes, valves, connection, utility risers or refilling or refueling devices shall be completely landscaped with shrubbery so as to obscure their visibility from the streets within or adjoining the Property or from any other Lot or the Common Area.

3.7 Setback Requirements and Building Location. All front, side, and rear setbacks must be approved by the Architectural Control Committee and must meet the requirements of the Design Guidelines, Plat and the applicable Governmental Requirements. The location of the Building on each Lot, the facing of the main elevation of any Residence with respect to nearby streets, and the facing of any elevation of a Building which is visible from an adjacent street or Common Properties shall be subject to the approval of the Architectural Control Committee. Additionally, each Owner must comply with the yard, lot coverage and minimum building separation requirements of the Design Guidelines.

3.8 Minimum Floor Space. Each Detached Residence constructed on any Detached Residence Lot shall contain the minimum square feet of floor area, exclusive of garages, breezeways and porches, as required under the terms of any Sub-Declaration and/or applicable Governmental Requirements. Each Townhome constructed on any Townhome Lot shall contain the minimum square feet of floor area, exclusive of garages, breezeways and porches, as required under the terms of any Sub-Declaration and/or applicable Governmental Requirements. Any Building constructed on the Multi-Family Lot or Flex-Use Lot shall be constructed to include floor area as permitted under the Design Guidelines and applicable Governmental Requirements.

3.9 Height. No Detached Residence or other building on any Detached Residence Lot shall have a height in excess of the maximum height allowed by the Design Guidelines and/or Sub-Declaration, whichever is less. No Townhome or other building on any Townhome Lot shall have a height in excess of the maximum height allowed by the Design Guidelines and/or Sub-Declaration, whichever is less. No Multi-Family Building or Flex-Use Building shall exceed the maximum height allowed by the Design Guidelines or under applicable Governmental Requirements.

3.10 Construction Requirements. All construction on any Lot shall meet the requirements of the Design Guidelines and the Design Guidelines and shall be subject to the explicit, itemized approval of the Architectural Control Committee in accordance with this Declaration.

3.11 Garages. Each Townhome erected on any Townhome Lot shall provide garage space for a minimum of two (2) conventional automobile(s), and each Detached Residence erected on any Detached Residence Lot shall provide garage space for a minimum of two (2) conventional automobile(s), unless some greater number is required by the City or under the terms of the Design Guidelines. Garage doors shall be closed at all times when not in use. All garage doors must be of material, design and color per the Design Guidelines and as approved by the Architectural Control Committee. Porte cocheres must be approved by the Architectural Control Committee or designee thereof. No carport shall be built, placed, constructed or reconstructed on any Lot. As used herein, the term "carport" shall not be deemed to include a porte cochere. No garage shall ever be changed, altered, reconstructed or otherwise converted for any purposes inconsistent with the garaging of automobiles. Garages or parking improvements shall be constructed on any Multi-

Family Lot and/or Flex-Use Lot in accordance with plans and specifications approved by the Architectural Control Committee, and otherwise in conformance with parking and design requirements under the Design Guidelines and any other applicable Governmental Requirements.

3.12 Fences. No fence, wall or hedge shall be erected, placed or altered on any Lot without the approval of the Architectural Control Committee and the design of and materials used in the construction of fences and walls shall comply with the minimum fencing requirements listed in the Design Guidelines and the Design Guidelines and have the explicit, itemized approval of the Architectural Control Committee. No fence, wall or hedge shall exceed six (6) feet in height, as measured from the final grade of the Lot the fence sits on. All fences constructed or installed within Subdivision shall be a uniform six (6) feet in height, as measured from the final grade of the Lot the fence sits on. The foregoing height limitations shall not apply to fences, walls and hedges constructed by Declarant along the perimeter of the Land or as part of the Common Improvements or by the Owner of the Multi-Family Lot in connection with the construction of the Multi-Family Building and related improvements in accordance with plans approved by the Architectural Control Committee and the City. All service and sanitation facilities, wood piles, and air conditioning equipment must be enclosed within fences, walls or landscaping so as not to be visible from the immediate residential street, adjoining Lots or the Common Area.

3.13 Retaining Walls. The design and materials for all retaining walls shall be limited to those designs and materials in the Design Guidelines and must have the explicit, itemized approval of the Architectural Control Committee for each particular retaining wall.

3.14 Landscaping. Any and all plans for the landscaping of front yards and of side yards not enclosed by solid fencing, including alterations, changes or additions thereto, with respect to any Lots other than the Residential Lots shall be subject to the approval of the Architectural Control Committee and shall comply with the requirements listed in the Design Guidelines. Lots (other than Residential Lots subject to the terms of a Sub-Declaration) shall further be landscaped and maintained as necessary to comply with the landscaping requirements of the Design Guidelines. Landscaping of front yards and of side yards of any Residential Lots not enclosed by solid fencing, including alterations, changes or additions thereto, shall be subject to the terms and requirements set forth in the Sub-Declaration for the Residential Lots. Subject to weather delay, each Lot shall be fully landscaped within sixty (60) days from the date on which the Building thereon is "complete"; as such term is defined in Section 3.23.

3.15 Trash Receptacles and Collection. Each Lot Owner shall make or cause to be made appropriate arrangements with the City or private waste removal service for collection and removal of garbage and trash on a regular basis. Each and every Owner shall observe and comply with any and all Governmental Requirements promulgated by the City and/or the Association in connection with the storage and removal of trash and garbage. All trash, garbage, or waste matter shall be kept in tightly sealed bags or other approved containers that shall be maintained in a clean and sanitary condition. No Lot shall be used for open storage of any materials whatsoever, except that building materials to be used in the construction of improvements erected on any Lot may be placed upon such Lot at the time construction is commenced and may be maintained thereon through completion of construction. No garbage, trash, debris, or other waste matter of any kind shall be burned on any Lot.

3.16 Parking. Each Owner shall be liable and responsible for constructing, operating, maintaining and repairing the required parking and related parking improvements on such Owner's Lot as may be required to comply with the Design Guidelines, and/or as may be required under any applicable Governmental Requirements.

3.17 Signs. All signage and flags displayed on a Multi-Family Lot, Multi-Family Building, Flex-Use Lot or Flex-Use Building shall comply with the Design Guidelines and any applicable Governmental Requirements. No signs or flags shall be displayed to the public view on any Multi-Family Lot or Flex-Use Lot without the explicit, itemized approval of the Architectural Control Committee. All signage on Townhome Lots or Detached Residence Lots shall comply with the terms and requirements for signage set forth in the Sub-Declaration applicable to such Residential Lots and/or all Governmental Requirements.

3.18 Offensive Activities. No noxious or offensive activity shall be conducted on any Lot nor shall anything be done thereon which is or may become an annoyance or nuisance to the other Owners. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except with respect to any Lot or portion thereof used for a Residential Use or tenant occupants of any Multi-Family Building, that dogs, cats or other household pets (not exceeding three (3) adult animals at any time) may be kept, provided that they are not kept, bred or maintained for commercial purposes.

3.19 Drilling and Mining Operations. No oil drilling, water drilling or exploration or development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, water wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil, natural gas or water shall be erected, maintained or permitted upon any Lot.

3.20 Duty of Construction. All construction on any Lot shall be completed no later than two (2) years following the commencement of construction. For the purposes of this Section, the term "commencement of construction" shall be deemed to mean the date on which the foundation forms are set. For purposes of this Section, construction shall be deemed completed when the City issues a final certificate of occupancy for the Building and/or Residences constructed on such Lot.

3.21 Express Plat Requirements. Owners are deemed to be aware of all provisions of the Plat.

3.22 Development Activity. Notwithstanding any other provision hereof, Declarant and any builder of any initial Buildings and their respective successors and assigns shall be entitled to conduct on the Property all activities normally associated with and convenient to the development of the Property, the initial construction of the Common Improvements, and the initial construction and sale of Buildings thereon. A builder of any initial Buildings shall have the right to leave any gates located on the Property open during any times that construction activities are permitted, without liability to any person.

#### ARTICLE IV

## PROPERTY RIGHTS IN COMMON PROPERTIES

4.1 Title to the Common Properties. The Declarant shall dedicate and convey the fee simple title to the Common Properties to the Association prior to or upon completion of Declarant's initial construction of the Common Improvements; provided, however, the rights Recreational Facility Land and Recreational Facilities shall not be owned by the Association but the rights of the Association and each Primary User and Permitted Users (as such terms are defined below) shall be by and through the Recreational Facility Land Easement herein granted for the benefit of the Association and its Members, subject to the terms set forth herein.

4.2 Recreational Facility Land Easement. Declarant, in its capacity as Recreational Facility Land Owner, hereby grants and conveys to the Association, and each Primary User and Permitted User an easement (the "**Recreational Facility Land Easement**") over, on, through and across the Recreational Facility Land for the purposes of access and use of the Recreational Facility Land and any Recreational Facilities located thereon as part of the Common Properties under the terms of this Agreement. The common expenses of the Association shall specifically include the proportionate share of cost and expenses to maintain and repair the Recreational Facilities and improvements within the Recreational Facility Land for and in consideration of the Recreational Facility Easement granted herein. The conveyance of all or any portion of the Recreational Facility Land shall be subject to and encumbered by the Recreational Facility Land Easement hereby granted and conveyed. The Recreational Facility Land Easement shall entitle the Primary Users and any Permitted Users hereunder to a waiver of any general admission fees charged by the Recreational Facility Land Owner for access and use of the Recreational Facilities by the general public, but shall not entitle any Primary User or Permitted Users to a waiver of any other fees or charges that may generally be charged by the Recreational Facility Land Owner to the general public as a condition to use of the Recreational Facilities. The access and use of the Recreational Facility Land and any Recreational Facilities by the Primary Users and any Permitted Users shall be subject in all events to any and all rules, restrictions, requirements, conditions and charges or fees (other than general admission fees) as applicable to the general public's use of the Recreational Facilities and/or the Recreational Facility Land.

**EACH MEMBER AND OWNER BY ACCEPTANCE OF A DEED ACKNOWLEDGES AND AGREES THAT THE RECREATIONAL FACILITIES AND RECREATIONAL FACILITY LAND ARE NOT OWNED BY THE ASSOCIATION AND SHALL BE OPEN TO THE PUBLIC AND DESIGNED FOR PUBLIC USE BY PERSONS WHO ARE NOT MEMBERS OR OWNERS OF LOTS WITHIN THE PROPERTY ON A GENERAL ADMISSION BASIS, AND THE RECREATIONAL FACILITIES SHALL BE SHARED WITH AND SUBJECT TO THE ACCESS AND USE OF THE GENERAL PUBLIC ON A GENERAL ADMISSION BASIS.**

4.3 Owner's Easement of Enjoyment. Subject to the provisions of Section 4.3, every Owner of a Residence (and each member of any Sub-Association established hereunder) or tenant of a Multi-Family Unit (a "**Primary User**") and every tenant of every Primary User, who resides on a Residential Lot or in a Multi-Family Unit, and each individual who resides with either of them, respectively, on such Residential Lot or Multi-Family Unit (collectively, the "**Permitted**



Users”), but in no event more than eight (8) Permitted Users for any Residential Lot or in a Multi-Family Unit, shall have a non-exclusive right and easement of use and enjoyment in and to the Common Properties, including, without limitation, the Recreational Facility Land and Recreational Facilities subject to the terms and conditions set forth herein, and such easement shall be appurtenant to and shall pass with the title of every Lot; provided, however, such easement shall not give such persons the right to make alterations, additions or improvements to the Common Properties. Each Owner of a Building on a Flex-Use Lot shall have a non-exclusive right and easement of use and enjoyment in and to the Common Properties excluding the Recreational Facility Land and Recreational Facilities by this Declaration.

4.4 Extent of Owners’ Rights and Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association to adopt, amend, enforce and revoke rules and regulations governing the use, operation and maintenance of the Common Properties, including, without limitation, the authority to charge reasonable fees and the authority to assess fines against an Owner due to its violation or the violation by any Permitted Users through such Owner of such rules and regulations established by the Association. The Association is further authorized and empowered to prohibit the use, or to limit the manner and extent of use, of the Common Properties by Owners owing unpaid fines, fees or assessments or violating rules and regulations of the Association.

(b) The right of the Association, by and through the Board, to enter into and execute contracts with a Managing Agent or any third parties (including the Declarant, any builder of the initial Building on any Lot, or an affiliate of either of them) for the purpose of providing management, maintenance or other materials or services consistent with the purposes of the Association;

(c) The right of the Association, subject to approval by written consent by the Member(s) having a majority of the outstanding votes of the Association, in the aggregate, regardless of class, to dedicate or transfer all or any part of the Common Properties to any public agency, authority, or utility company for such purposes and upon such conditions as may be approved by such Members; and

(d) The right of the public to the use and enjoyment of public rights-of-way, if any, located within the Common Properties and the right of the public to use and enjoy the Recreational Facility Land and Recreational Facilities.

4.5 Restricted Actions by Owners. No Owner, Primary User or Permitted User shall permit anything to be done on or in the Common Properties which would (i) violate any applicable public law or zoning ordinance (including without limitation any applicable Governmental Requirements), (ii) result in the cancellation of or increase of any insurance carried by the Association, (iii) be in violation of any law, or (iv) with respect to the Recreational Facility Land and/or Recreational Facilities, violate any rules, restrictions, requirements, or conditions applicable to the general public with respect to the access or use of the Recreational Facility Land and/or Recreational Facilities. No waste shall be committed in the Common Properties.

4.6 Damage to the Common Properties. Each Owner and Primary User shall be liable for itself and any Permitted User through such Owner or Primary User to the Association for all damage, other than ordinary wear and tear, to the Common Properties caused by the Owner, the Primary User or any Permitted User through such Owner or Primary User, or such Owner's, Primary User's or Permitted User's family, pets, tenants or other occupants of such Owner's or Primary User's Lot or Multi-Family Unit, or by any guest or invitee of any of the foregoing. The Common Properties may be subject to storm water overflow, natural bank erosion and other natural or man-made events or occurrences which cannot be defined or controlled. **Under no circumstances shall Declarant or the Association, or its Managing Agent, ever be liable, and each person hereafter becoming an Owner hereby waives any right to recovery from Declarant, the Association or the Managing Agent (if any), for any damages or injuries of any kind or character or nature whatsoever resulting from: (i) the occurrence of any natural phenomena; (ii) the failure or defect of any structure or structures situated on or within the Common Properties, including failures or defects occurring through the negligence of contractors employed by Declarant or the Association; or (iii) any negligent or willful act, conduct, omission or behavior of any individual, group of individuals, entity or enterprise occurring on, within or related to the Common Properties.**

4.7 Risk of Loss - Use of Common Area and Common Amenities. **Each Owner and/or Primary User shall be individually responsible and assume all risk of loss associated with its use of the Common Properties, and use by Permitted User by, thorough or under such Owner or Primary User. Neither the Association nor the Declarant, nor any Managing Agent engaged by the Association or Declarant, shall have any liability to any Owner, Primary User or Permitted User, or to any other Person, arising out of or in connection with the use, in any manner whatsoever, of the Common Properties or any improvements comprising a part thereof from time to time. Declarant shall have no responsibility for maintenance, repair, replacement, or improvement of the Common Properties after initial construction thereof and Declarant shall have no responsibility for construction of any Recreational Facilities within the Recreational Facility Land.**

## ARTICLE V

### PROPERTY OWNERS ASSOCIATION

5.1 Purposes. The Association shall have the duty and responsibility to administer and maintain the Common Properties, to maintain all commonly-owned or maintained road medians located within the Property or which are part of the Common Properties, to discharge any maintenance obligations imposed upon it by the Plat, to discharge the additional maintenance obligations with respect to Lots and Buildings imposed upon it by this Declaration, to procure insurance, to establish and collect assessments and to disburse collected funds as so permitted, to enforce this Declaration, and to perform any other functions imposed upon the Association by this Declaration.

5.2 Membership. Every Owner shall automatically be a Member of the Association.

5.3 Classes of Membership. The Association shall have two (2) classes of membership:

(a) Class A. Class A Members shall be all Owners who are not Class B Members. Class A Members shall be entitled to (i) one (1) vote for each Townhome Lot and/or Detached Residence Lot in which they hold the interest required for membership, (ii) one (1) vote for each Multi-Family Unit located within a Multi-Family Lot or Flex-Use Lot used for Multi-Family Use for the Owner of such Multi-Family Lot or Flex-Use Lot in which they hold an interest required for membership, and (iii) five (5) votes per acre of land within a Flex-Use Lot in which they hold an interest required for membership not used for a Multi-Family Use. When more than one person holds such interest or interests in any Lot, all such persons shall be Class A Members; however, the vote for such Lot shall be exercised as the Owners of such Lot jointly determine, among themselves, and such vote shall not be counted if the Owners of such Lot cannot unanimously agree on such vote. The Owners of Lots that are also members of a Sub-Association shall appoint one representative to exercise any of their votes as a Class A Member of the Association (the "**Sub-Association Representative**") in accordance with the terms of the Sub-Declaration applicable to such Lot(s); provided, however, if such members of a Sub-Association fail to appoint a Sub-Association Representative, the President of the Sub-Association shall serve as the Sub-Association Representative for such Members that are also members of such Sub-Association. In no event shall the Sub-Association Representative exercise any voting rights of the Class B Member hereunder.

(b) Class B. The sole Class B Member shall be Declarant. The Declarant shall be entitled to (i) fifty (50) votes for each Townhome Lot and/or Detached Residence Lot owned by it, (ii) fifty (50) votes for each Multi-Family Unit on any Multi-Family Lot or Flex-Use Lot used for Multi-Family Use owned by it, and (iii) one thousand (1,000) votes per acre owned by Declarant that is (A) within a Flex-Use Lot not used for Multi-Family Use, and/or (B) within any portion of the Property designated as a Multi-Family Lot or Residential Lot on which a Building or Dwelling has not yet been completed. In determining the number of Lots owned by the Declarant for the purpose of Class B membership status hereunder, the total number of Lots and/or acreage covered by this Declaration, including all Lots and acreage annexed thereto in accordance with Section 2.2 herein shall be considered, subject to the terms of Section 13.3 hereof.

(c) Subject to the conditions set in this Declaration, the Class B membership shall be converted to Class A membership upon the earlier of (i) the total votes outstanding in the Class A membership equaling or exceeding the total votes outstanding in the Class B membership, (ii) expiration of the Development Period, or (iii) the recording in the Official Public Records of Grayson County, Texas, of a notice signed by the Declarant terminating Class B membership.

5.4 Administration and Maintenance of the Common Properties; Other Maintenance Obligations. The Association shall take the actions required to care for and preserve the Common Properties. The Board of Directors shall be empowered to establish, amend and repeal rules for the use of the Common Properties. The Association shall further be obligated to perform the maintenance obligations on individual Lots required to be performed by the Association pursuant to this Declaration.

5.5 Assessments, Borrowing, Reserve Funds. The Board of Directors shall administer the assessment process described in Article VI hereof. The Board of Directors shall have the authority on behalf of the Association to borrow funds on a secured or unsecured basis without the approval of Declarant or the Members so long as the aggregate outstanding indebtedness with respect to such borrowing(s) does not exceed \$200,000.00 at any one time. Any borrowing in excess of such limitation may be made only with the prior approval of Declarant if during the Development Period, or if not during the Development Period then only with the prior approval of Members holding at least a majority of the votes of all Members. If any such borrowing is secured, the security may consist of the assignment of current or future assessments or the pledge of rights against delinquent Owners, provided, however, that the Association shall not have the power to mortgage the Common Properties. The Board of Directors shall have the authority to establish reserve funds in accordance with other provisions of this Declaration or for any other lawful purpose. Reserve funds shall be accounted for separately from other funds.

5.6 Disbursement of Association Funds. The Board of Directors shall have the exclusive right to authorize the Association to contract for all goods, services, and insurance and to hold and disburse Association funds in payment therefore.

5.7 Managing Agent. The Association, through its Board of Directors, shall contract with a Managing Agent to administer the duties and obligations of the Association hereunder or under the other Governing Documents. During the Development Period, neither the Association nor any Members may terminate any management contract entered into with a Managing Agent without the prior written consent and approval of Declarant, which approval may be withheld in Declarant's sole and absolute discretion. The provisions of this Section 5 may not be modified or amended without the written consent of all Owners and, during the Development Period, the Declarant.

5.8 Declaration Enforcement. If, as and when the Board of Directors, in its sole discretion, deems necessary, it may cause the Association to take action to enforce the provisions of this Declaration and any rules made hereunder and to enjoin and/or seek damages from any Owner for violation thereof

5.9 Liability Limitations. Neither any Member nor the Board of Directors (or any member thereof) nor any officer of the Association shall be personally liable for debts contracted for or otherwise incurred by the Association or for the negligence, willful misconduct or other tort of another Member, whether such other Member was acting on behalf of the Association or otherwise. Neither the Declarant nor the Association nor their respective directors, officers, agents or employees shall be liable for any incidental or consequential damages for failure to inspect any premises, improvements or portion thereof or for failure to repair or maintain the same. Each Owner further acknowledges that neither Declarant, any Builder, the Association, any Managing Agent, nor their respective members, partners, managers, directors, officers, agents or employees (the "**Indemnified Parties**") will have any responsibility or liability for the safety or security of any person or property with respect to any acts or omissions of any third parties, including criminal acts.

## ARTICLE VI

## ASSESSMENTS

6.1 Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association Regular Assessments, Special Purpose Assessments, Special Member Assessments and other charges to be established and collected as provided herein (collectively, the “**Assessments**”). The obligation of the Owner(s) of a Lot to pay such Assessments and charges, together with interest thereon (if any) for past due payments at a rate or rates of interest determined and established from time to time by the Association (which rate or rates shall in no event exceed the maximum lawful rate of interest permitted under Texas law from time to time prevailing), late charges (in an amount or amounts determined and established from time to time by the Association), and costs incurred by the Association in connection with the collection of any of the foregoing Assessments, charges, and other sums, or in connection with the enforcement of this provision, including without limitation reasonable attorneys’ fees incurred by the Association in connection therewith, shall be a continuing charge and lien upon each such Lot as a covenant running with the land, and any such Assessments, interest, costs and other charges assessed or charged and remaining unpaid with respect to any Lot shall constitute a lien and encumbrance on such Lot until the same is paid in full. Declarant hereby reserves such a lien upon each Lot in the name of and for the benefit of the Association. Such lien shall constitute a contractual lien, and a power of sale is hereby granted with respect to such lien for the benefit of the Association as hereinafter set forth. Each such Assessment or other charge, together with interest, late charges, costs of collection and reasonable attorney’s fees, shall also be the personal obligation of the person who is the Owner of such Lot at the time the assessment or other charge comes due (the “**Personally Obligated Owner**”); but personal liability for payment of delinquent Assessments or other charges shall not pass to successors in title to the Personally Obligated Owner unless expressly assumed by them.

6.2 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents and occupants of the Property and in particular for:

(a) (i) the improvement and maintenance of the Common Properties within the Property or any other maintenance necessary or desirable for the use and enjoyment of the Common Properties, and (ii) the Association Lot Maintenance (as defined in Section 7.1(a) hereof). Notwithstanding the foregoing, no maintenance performed by an Owner shall reduce the Assessment payable by him or her to the Association;

(b) the maintenance, repair and reconstruction, when needed as determined by the Association, of (i) private water and/or sewer lines (and any meters or lift stations associated therewith) serving any part of the Common Properties, and driveways, walks, and parking areas situated in the Common Area and (ii) City maintained water and/or sewer lines (and any meters or lift stations associated therewith) serving any Lot;

- (c) the payment of taxes and public assessments assessed against the Common Properties;
- (d) the procurement and maintenance of insurance in accordance with this Declaration;
- (e) the employment of attorneys to represent the Association, when necessary or desirable;
- (f) the provision of adequate reserves for the restoration or replacement of capital improvements; including, without limiting the generality of the foregoing, roofs, paving, foundations and any other major expense for which the Association is responsible; and
- (g) such other needs as may arise in the performance of the Association's obligations under this Declaration.

The Assessments the Association is authorized to levy under this Section 6.2 and under other applicable provisions of this Declaration shall include, but shall not be limited to, the costs and expenses incurred or to be incurred by the Association in managing, administering, paying for, performing or contracting for the performance of any of the items listed in subparagraphs (a) through (g) above.

6.3 Reserves. The Association may establish and maintain an adequate reserve fund for the periodic maintenance, repair, restoration and/or replacement of (a) improvements in the Common Areas, (b) the front yard (including landscaping and hardscape installed by the Declarant or the Association) located outside of fenced-in areas of the Lots, exterior and structural portions of Townhomes (including, without limitation roof sheer walls), or any other Association Lot Maintenance for which the Association is liable pursuant to this Declaration (but in no event is the Association liable or responsible to maintain, repair, restore or replace any improvements or landscaping installed by an Owner of a Lot which is the subject of any Association Lot Maintenance which has not been approved in writing by the ACC); and (c) those other portions of the Property which the Association may be obligated to maintain. If established, such reserve fund shall be established and maintained, insofar as is practicable, out of Regular Assessments for common expense.

#### 6.4 Regular Assessments.

(a) The Board of Directors shall cause to be prepared an estimated annual budget for each fiscal year of the Association, taking into account all anticipated common expenses, the amount that should be set aside for unforeseen contingencies, the amount that should be set aside for capital improvements, the anticipated income, if any, of the Association from sources other than assessments, and the existence of any surplus or deficit remaining from the preceding year's budget. The common expenses of the Association shall specifically include the proportionate share of cost and expenses to maintain and repair the Recreational Facilities and improvements within the Recreational Facility Land for and in consideration of the Recreational Facility Land Easement granted herein. Such budget shall segregate costs and expenses of the

Association related to the Association Lot Maintenance separately, which costs and expenses are herein referred to as the “**Association Lot Maintenance Costs**.” Included in the proposed budget shall be the proposed regular annual assessment (the “**Regular Assessment**”) for such fiscal year for (i) each Detached Residence Lot based on the common expenses of the Association and the proportionate share of the Association Lot Maintenance Costs attributable to such Detached Residence Lot(s) as determined by the Board in its sole discretion, which shall be assessed and charged against each Detached Residence Lot (the “**Detached Residence Regular Assessment**”), and (ii) each Townhome Lot based on the common expenses of the Association and the proportionate share of the Association Lot Maintenance Costs attributable to such Townhome Lot(s) as determined by the Board in its sole discretion, which shall be assessed and charged against each Townhome Lot (the “**Townhome Regular Assessment**”), (iii) each Multi-Family Lot based on the common expenses of the Association and the proportionate share of the Association Lot Maintenance Costs attributable to such Multi-Family Lot(s) as determined by the Board in its sole discretion, which shall be assessed and charged against each Multi-Family Lot (the “**Multi-Family Regular Assessment**”), and (iv) each Flex-Use Lot based on the common expenses of the Association and the proportionate share of the Association Lot Maintenance Costs attributable to such Flex-Use Lot(s) as determined by the Board in its sole discretion, which shall be assessed and charged against each Flex-Use Lot (the “**Flex-Use Regular Assessment**”). The proposed annual budget and the proposed Regular Assessment against each Lot for each fiscal year shall be approved and adopted by the Board of Directors. A copy of the proposed budget, including the proposed Regular Assessment against each Lot, shall be furnished to each Owner at least thirty (30) days prior to the earlier to occur of (i) the day that the Board of Directors adopts the budget and the Regular Assessment against each Lot, or (ii) the beginning of each fiscal year of the Association. Copies of the proposed budget shall also be available to all Members for inspection during regular business hours at the Association’s office during the same periods.

(b) Commencing on the date on which Declarant conveys a Lot to any non-Declarant Owner (including, without limitation, any Builder) (the “**Assessment Commencement Date**”), (i) the Detached Residence Regular Assessment for each such Detached Residence Lot shall be **Three Hundred and No/100 Dollars (\$300.00)** per Detached Residence Lot, per year, (ii) the Townhome Regular Assessment for each such Townhome Lot shall be **Three Hundred and No/100 Dollars (\$300.00)** per Townhome Lot, per year, (iii) the Multi-Family Regular Assessment for each such Multi-Family Lot on which a Building has been constructed and completed shall be **Fifty and No/100 Dollars (\$50.00)** per Multi-Family Unit within the Buildings constructed on a Multi-Family Lot, per year, and (iv) **Twenty-Five and No/100 Dollars (\$25.00)** per acre located within any Flex-Use Lot or located within any Multi-Family Lot on which a Building has not yet been completed, per year. The initial Regular Assessments and Regular Assessments for each calendar year during the term of this Declaration may be adjusted based on the common expenses of the Association set forth in the budget adopted by the Board for each such calendar year, and included in the budget shall be the proposed Regular Assessment for each Lot type described hereunder. Furthermore, upon substantial completion of the Recreational Facilities within the Recreational Facility Land, the Declarant may adjust the amount of the Regular Assessments levied for any or all Lots in the calendar year in which the Recreational Facilities are substantially completed and the following calendar year, as determined by Declarant in its sole discretion, to incorporate additional common expenses related to the Association’s contribution to the proportionate share of the costs and expenses to maintain and

repair such Recreational Facilities. During the period ending three (3) years after the first full calendar year after the Recreational Facilities are substantially completed, the Declarant may adjust the Regular Assessments for any and all Lots within the Project based on the adopted budget and/or common expenses (anticipated or actual) for the calendar year in which the Regular Assessments shall be levied, **as determined by Declarant in its sole discretion**. From and after the expiration of such three (3) year period, the Regular Assessment may be increased, decreased or maintained at its then current level by the Board of Directors effective January 1 of each year without a vote of membership, but subject to the following limitations: if an adopted budget requires a Regular Assessment against the Owners in any fiscal year exceeding one hundred fifty percent (150%) of the Regular Assessment levied during the immediately preceding fiscal year, then upon written petition of Owners holding at least sixty-seven percent (67%) of the outstanding votes of all Members of the Association (both classes taken together) that is received by the Board of Directors within fourteen (14) days after such budget was adopted, the Board of Directors shall call a meeting of the Members of the Association to consider the budget. If no such petition is filed, the increase of the Regular Assessment may be approved by the Board without a vote of membership. If a petition is filed with the Board, and the meeting is held, regardless of whether or not a quorum is actually present at such meeting, the budget shall be deemed ratified by the Members of the Association unless enough votes are cast at such meeting in favor of rejecting the budget to qualify as a majority of all the votes that could have been cast at such meeting, if all Members had been present in person or by proxy at such meeting. In the event that the Board of Directors shall not approve an estimated annual budget or shall fail to determine new Regular Assessments for any year, or shall be delayed in doing so, each Owner shall continue to pay the amount of such Owner's Regular Assessment as last determined. Notwithstanding the foregoing, the Class B Member's liability for Assessments of any kind under this Declaration shall be only as provided in Section 6.14 of this Declaration.

(c) Regular Assessments shall be paid ratably on such monthly, quarterly or other basis as shall be established from time to time by the Board of Directors. The due dates shall be established by the Board of Directors. Once the Regular Assessment for a fiscal year has been established by the Board of Directors, written notice of the monthly or other periodic payment amount with respect to such Regular Assessment shall be sent to every Owner subject thereto by the Association. The Association shall, within ten (10) business days after a request therefor and for a reasonable charge, furnish a certificate signed by an officer of the Association, setting forth whether the Assessments on a specified Lot, including any Regular Assessments, have been paid.

(d) Notwithstanding anything in this Section 6.4 to the contrary, if any amount is assessed against a Lot in accordance with Section 7.1(b) as a result of damage that was caused to said Lot, the Townhome Building that is located partially on such Townhome Lot, or to some other part of the Property by the willful or negligent act(s) of the Owner of the assessed Lot, such amount shall not be considered or counted in determining whether a Regular Assessment has been made against such assessed Lot under paragraphs (a) or (b) of this Section.

6.5 Special Assessments. In addition to the Regular Assessments authorized above and any other special assessments authorized by other provisions of this Declaration, the Association may levy in any calendar year special assessments to Class A Members as follows:



(a) **Special Purpose Assessments.** The Association may impose special assessments (“**Special Purpose Assessments**”) the purpose of supplying adequate reserve funds for the restoration and/or replacement of capital improvements or for defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area or the structural portions of any Building(s) located on a Lot(s) which the Association is liable as part of the Association Lot Maintenance hereunder, provided that any such assessment in excess of an amount equal to one hundred percent (100%) of the then current Regular Assessment assessed annually shall require the assent of (i) Declarant, if during the Development Period, or (ii) a majority of the votes of the Members who are present in person or by proxy at a meeting duly called for this purpose, if after the Development Period. At least ten (10 but no more than sixty (60) days prior to any meeting of the Association called to consider any Special Purpose Assessment, the Board shall notify each Owner by written notice specifying the total amount of the Special Purpose Assessment required, the amount thereof imposed on each Lot (which shall be equitably prorated between Owners as determined by the Board and in a manner consistent with the allocation applied to Regular Assessments hereunder), the purpose for such Special Purpose Assessment, and the time and method of payment thereof. The time for paying any Special Purpose Assessment (which may be in installments) shall be as specified in the approved proposal.

(b) **Special Member Assessments.** The Board may levy a “**Special Member Assessment**” (herein so called) on any Member, to the extent any directly related insurance proceeds (if any) paid to the Association are not sufficient to pay all such costs, for the purpose of:

(i) Paying the cost of any damage or loss requiring maintenance, repairs or replacement of improvements within Common Areas, which damage or loss has been determined by the Board to have been caused, either directly or indirectly, by the act(s) of such Member, or such Member's agent, employee, occupant or visitor; and/or

(ii) Paying the maintenance costs, construction delay damages and fines imposed for violations of this Declaration or any other rules and/or regulations promulgated thereby or other amounts chargeable to any Owner as otherwise set forth herein, and/or payment of any amounts expended by such Declarant or the Association in performing a defaulting Owner's obligations as provided for hereunder, including, without limitation as provided for in Section 7.1 hereof.

6.6 **Notice and Quorum for Certain Actions Authorized Under Sections 6.4 or 6.5.** Written notice of any meeting of Members called for the purpose of taking any action authorized under Sections 6.4 or 6.5 shall be sent to all Members not less than ten (10) days nor more than sixty (60) days in advance of the meeting. At a meeting called for the purpose of considering a special assessment under Section 6.5, the presence of Members or of proxies entitled to cast twenty percent (20%) of all the votes of all Members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required

quorum at the subsequent meeting shall be ten percent (10%) of all the votes of all Members. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

6.7 No Offsets; Uniform Rate of Assessment; Exemption Option for School Use.

(a) All Assessments shall be payable in the amount specified by the Association, and, except as may otherwise be expressly provided herein, no offsets against such amount shall be permitted for any reason. Both Regular Assessments and any Special Purpose Assessments shall, except as otherwise specifically provided herein, be fixed at a rate applied in uniform manner to all Lots of the same type (i.e. the same rate shall apply to all Townhome Lots but the Townhome Lots and Detached Residence Lots may not necessarily pay the same rate of Regular Assessments hereunder, Multi-Family Lots may not necessarily pay the same rate of Regular Assessments hereunder as Lots utilized for Residential Use, and Flex-Use Lots not used for Multi-Family Use may not necessarily pay the same rate of Regular Assessments hereunder as Multi-Family Lots of Lex-Use Lots utilized for Multi-Family Use).

(b) During the Development Period, Declarant, at Declarant's sole discretion, may (but is in no way hereby obligated to), exempt any Flex-Use Lot used and occupied for a School Use to be exempt from the payment of Assessments and other fees and charges hereunder (the "**School Use Exemption**"). Additionally, during the Development Period, Declarant, at Declarant's sole discretion, may (but is in no way hereby obligated to), withdraw and de-annex any Flex-Use Lot to be used or occupied for a School Use from the Property subject to this Declaration and jurisdiction of the Association hereunder (the "**School Use Withdrawal Right**"). The right of Declarant hereunder to grant a School Use Exemption and/ exercise the School Use Withdrawal Right shall automatically transfer to the Board upon expiration of the Development Period. The terms of this Section 6.7(b) may not be modified or amended during the Development Period without the joinder and consent of Declarant.

6.8 Reservation, Subordination, and Enforcement of Assessment Lien. Declarant hereby reserves for the benefit of itself and the Association, a continuing contractual lien (the "**Assessment Lien**") against each Lot located on the Property to secure payment of the Assessments imposed hereunder. THE OBLIGATION TO PAY ASSESSMENTS IN THE MANNER PROVIDED FOR IN THIS ARTICLE, TOGETHER WITH INTEREST FROM SUCH DUE DATE AT THE DEFAULT INTEREST RATE SET FORTH IN SECTION 6.9 HEREOF, THE CHARGES AND FEES MADE AS AUTHORIZED IN SECTION 6.9 HEREOF, ALL VIOLATION FINES AND THE COSTS OF COLLECTION, INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES, IS SECURED BY A CONTINUING CONTRACTUAL ASSESSMENT LIEN AND CHARGE ON THE LOT COVERED BY SUCH ASSESSMENT, WHICH SHALL BIND SUCH LOT AND THE OWNERS THEREOF AND THEIR HEIRS, SUCCESSORS, DEVISEES, PERSONAL REPRESENTATIVES AND ASSIGNEES. The continuing contractual Assessment Lien shall attach to the Property and Lots developed or to be developed therein as of the date of the recording of this Declaration in the Official Public Records of Grayson County, Texas, and such Assessment Lien shall be superior to all other liens except as otherwise provided in this Section 6.8. Each Owner, by accepting conveyance of a Lot, shall be deemed to have agreed to pay the Assessments herein provided for and to the reservation of the Assessment Lien. The Assessment Lien shall be subordinate only to

the liens of any valid first lien mortgage or deed of trust encumbering a particular Lot. Sale or transfer of any Lot shall not affect the Assessment Lien. However, the sale or transfer of any Lot pursuant to a first mortgage or deed of trust foreclosure (whether by exercise of power of sale or otherwise) or any proceeding in lieu thereof, shall only extinguish the Assessment Lien as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability and the Assessment Lien for any Assessments thereafter becoming due. The Assessment Lien may be non-judicially foreclosed by power of sale in accordance with the provisions of Section 51.002 of the Texas Property Code (or any successor provision) or may be enforced judicially. Each Owner, by accepting conveyance of a Lot, expressly grants the Association a power of sale in connection with the foreclosure of the Assessment Lien. The Board is empowered to appoint a trustee, who may be a member of the Board, to exercise the powers of the Association to non-judicially foreclose the Assessments Lien in the manner provided for in Section 51.002 of the Texas Property Code (or any successor statute). The Association, through duly authorized agents, shall have the power to bid on the Lot at foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

6.9 Effect of Nonpayment of Assessments; Remedies of the Association. If any Assessment is not paid within thirty (30) days from the due date thereof, in addition to any interest which may accrue thereon as may be determined by the Board of Directors of the Association at any time and from time to time, a late charge shall be assessed against the non-paying Owner for each month that any Assessment remains unpaid as more specifically provided herein, and if placed in the hands of an attorney for collection or if collected through probate or other judicial proceedings, there shall be reimbursed to the Association its reasonable attorneys' fees. Should any Assessment provided for herein be payable in installments, the Association may accelerate the entire Assessment and demand immediate payment thereof. A late charge shall be assessed against the non-paying Owner for each month that any Assessment remains unpaid. The late charge shall be in the amount of **Twenty-Five and No/100 Dollars (\$25.00)** per month and shall serve to reimburse the Association for administrative expenses and time involved in collecting and processing delinquent Assessments. An additional fee of **Thirty-Five and No/100 Dollars (\$35.00)** shall be assessed to an owner's account for every check returned for non-sufficient funds. The Association's Managing Agent shall be entitled to charge an Owner a monthly collection fee of **Fifteen and No/100 Dollars (\$15.00)** to compensate Managing Agent for its efforts in collecting delinquent Assessments. The Association, in the Board's discretion, shall have the right to waive any part of or all of such fees and/or interest. The Association may bring an action at law against the Personally Obligated Owner or foreclose the lien against the Lot(s) subject to the unpaid Assessments, interest or other charges, and in either event, the Association shall be entitled to recover the unpaid Assessment, interest or other charges, the late charge specified above, and any expenses and reasonable attorney's fees incurred by the Association in prosecuting such foreclosure and/or such collection. Each Owner of any Lot by acceptance of a deed therefore hereby grants to the Association a power of sale with respect to such Owner's Lot in connection with the enforcement of the lien established by this Article VI, together with the right to appoint and remove a trustee and any number of substitute trustees and to cause the trustee or substitute trustee to foreclose the Association's lien against such Lot pursuant to a non-judicial foreclosure sale conducted in accordance with the provisions of Section 51.002 of the Texas Property Code, as from time to time amended, or its successor provision. However, nothing herein shall prevent the Association from seeking a judicial foreclosure of such lien or any other right or remedy

available to the Association with respect to any amounts owed hereunder. No Owner may waive or otherwise escape liability for any Assessment provided for herein by non-use of the Common Properties or abandonment of his Lot.

6.10 Suspension of Right to Use Common Properties. In addition to the other powers herein granted, the Board may suspend the right of an Owner, and/or any Primary User or Permitted User with rights through such Owner, to use any of the Common Properties during the time that such Owner is delinquent in paying any Assessment.

6.11 Working Capital Fund. At the option of the Association, through action by its Board, the Association may elect at any time and from time to time to levy an additional assessment in an amount no greater than the then current Regular Assessment for such Lot (the "**Capitalization Fee**") collected by the Association from the purchaser of a Lot upon closing on the transfer to be held as a working capital fund. The purpose of said fund is to ensure that the Association will have adequate cash available to meet expenses contemplated herein, as well as unforeseen expenses, and to acquire additional equipment or services deemed necessary or desirable. Amounts so paid into the working capital fund, if any, shall not be considered an advance payment of Regular Assessments.

6.12 Transfer Fees and Fees for Issuance of Resale Certificates. Pursuant to the terms of Section 5.7 hereof, the Board may enter into a contract with a Managing Agent to oversee the daily operation and management of the Association. The Managing Agent may, and probably will, have fees, which will be charged to an Owner for the transfer of a significant estate or fee simple title to a Lot and the issuance of a "**Resale Certificate**" (herein so called). The Association or its agent shall not be required to issue a Resale Certificate until payment for the cost thereof has been received by the Association or its agent. Transfer fees and fees for the issuance of a Resale Certificate shall be at such rate as determined by the Board and /ort Managing Agent from time to time and are not refundable and may not be regarded as a prepayment of or credit against Assessments due hereunder, and are in addition to the Capitalization Fee in Section 6.11 above. This Section does not obligate the Board, the Managing Agent or any third party to levy such fees.

6.13 Evidence of Lien. To evidence the Association's lien for unpaid Assessments provided for in this Article VI, the Association may prepare a written notice of the lien setting forth the amount of the unpaid indebtedness, the name of the Owner(s) of the Lot covered by such lien, and a legal description of the Lot covered by such lien. Such notice shall be executed by an officer of the Association and shall be recorded in the real property records of the county in which such Lot is located. Notwithstanding the foregoing, any failure by the Association to record a notice as provided herein with respect to any Lot shall not prevent or otherwise affect the Association's right or ability to seek collection of the Assessment from the Personally Obligated Owner or to enforce the lien against the Lot.

6.14 NO ASSESSMENT OBLIGATION OF DECLARANT. Declarant, on behalf of itself and its successors and assigns to whom its rights as Declarant expressly assigned, are hereby exempt from the obligation to pay Assessments for the Lots that Declarant owns. However, the Declarant may (but is in no way obligated to) annually elect to pay the Association the difference between the amount of Regular Assessments collected on all other Lots subject to assessment and the amount of the actual expenditures incurred to operate the Association during such calendar

year (the “subsidy”). The payment by Declarant of a subsidy in any year shall under no circumstances obligate the Declarant to pay a subsidy in a future year or years. Any subsidy may be paid by the Declarant in increments throughout the year as funds are needed by the Association.

6.15 Advances by Declarant during Development Period. In order to maintain the Common Properties and sustain the services contemplated by Declarant during the Development Period, Declarant, in its sole discretion, may provide amounts in excess of the funds raised by the Regular Assessments in order to maintain the Common Properties within reasonable standards. Any such advances made by Declarant during the Development Period shall be deemed to be a loan by Declarant to the Association, and shall be a debt of the Association to the advancing party, and may be evidenced by a promissory note payable by the Association to the advancing party including terms based on reasonable market conditions at the time such funds were advanced. In the event of any such loan, interest shall accrue thereon at the prime rate of interest announced from time to time by Bank of America, N A. or another bank designated by the Board at the time the loan is made plus 1% per annum, payable by the Association to the Declarant from future annual Assessments collected by the Association.

## ARTICLE VII

### RESERVED

## ARTICLE VIII

### ARCHITECTURAL CONTROL COMMITTEE

8.1 Architectural Control Committee. The Declarant shall establish an architectural control committee (the “**Committee**”) for the Multi-Family Lots and Flex-Use Lots composed of three (3) individuals which shall, during the Development Period, be selected and appointed by the Declarant. The Committee shall function as the representative of the Association. The Committee shall exist and act for the purposes herein set forth as well as for all other purposes consistent with the creation and preservation of a first-class mixed-use, commercial and residential development. Any one or more of the members of a Committee may be removed from the Committee, with or without cause, by the Declarant during the Development Period and thereafter by the Board of Directors. After the Development Period, the Board of Directors shall appoint members to the Committee and may (but in no event shall be required to) establish separate Committees for the Multi-Family Buildings and the Flex-Use Buildings, at the Board’s sole discretion. If a separate Committee is established for the Multi-Family Buildings and Flex-Use Buildings, (a) the members of the Committee shall be appointed by a majority of the directors or the director of the Board of Directors which has been appointed or elected by the Members owning Lots on which the Multi-Family Buildings or Flex-Use Buildings are located (as applicable), (b) such Committee may establish Design Guidelines (as defined below) applicable solely to such Multi-Family Buildings or Flex-Use Buildings, as applicable, and (c) such Committee shall have all the rights, duties, powers and authority of the Committee under this Declaration solely with respect to such Multi-Family Buildings or Flex-Use Buildings, as applicable.

The Sub-Association(s) established for the Townhome Lots and Detached Residence Lots shall establish their own architectural review committees to perform all actions of the Committee hereunder with respect to such Townhome Lots and Detached Residence Lots.

A majority of the Committee may designate a member to act for it. No member of the Committee shall be entitled to any compensation for services performed hereunder nor be liable for claims, causes, causes of action or damages (except where occasioned by gross negligence or willful misconduct) arising out of services performed pursuant to this Declaration.

## 8.2 Architectural Approval.

(a) Design Guidelines. The initial Design Guidelines applicable to the Multi-Family Lots and Flex-Use Lots within the Property are attached hereto as **Exhibit C** and incorporated herein by reference. The Committee may, from time to time at its election, publish and promulgate modifications, amendments or restatements of these Design Guidelines, and which shall supplement these Covenants and shall be deemed incorporated herein by reference. The Committee shall have the right from time to time to amend the Design Guidelines with respect to the Multi-Family Lots and Flex-Use Lots, provided such guidelines, as amended, shall be in keeping with the overall quality, general architectural style and design of the community. The Committee shall have the authority to make final decisions in interpreting the general intent, effect and purpose of those matters for which it is responsible in accordance with these Covenants. The Committee shall endeavor to promulgate the Design Guidelines in such a manner that only materials complying with all applicable laws and regulations are specified therein, but each Owner of a Multi-Family Lot or Flex-Use Lot (and not the Committee) is responsible for complying with such laws and regulations on his respective Multi-Family Lot or Flex-Use Lot. If the Committee should be advised that materials specified by the Design Guidelines do not comply with applicable laws or regulations, the Committee shall use reasonable efforts to inquire into the nature of the non-compliance and to make appropriate revisions of the Design Guidelines.

The Sub-Association(s) established for the Townhome Lots and Detached Residence Lots shall establish their own design guidelines with respect to such Townhome Lots and Detached Residence Lots (and any modifications or amendments thereto), which shall be subject to the prior written consent and approval of the Declarant during the Development Period, and thereafter by the Board of the Association. The Declarant and the Association, through its Board is hereby empowered to enforce compliance with any design guidelines established under the terms of the Sub-Declaration for the Townhome Lots and Detached Residence Lots, and any violation of such design guidelines applicable to the Townhome Lots and/or Detached Residence Lots by an Owner shall be a violation of the terms of this Declaration by such Owner.

(b) Required Approval. No building, structure, paving, pools, fencing, hot tubs or improvement of any nature shall be erected, placed or altered on any Multi-Family Lot or Flex-Use Lot until the site plan showing the location of such building, structure, driveway, access drives, paving or improvement, construction plans and specifications thereof and landscaping and grading plans therefor have been submitted to and approved in writing by the Committee (“**Architectural Approval**”) as to: (i) location with respect to lot lines, setback lines and finished grades with respect to existing topography, (ii) conformity and harmony of external design, color, and texture

with existing structures and existing landscaping, (iii) quality of materials, adequacy of site dimensions, and proper facing of main elevation with respect to nearby streets; (iv) conformity with the Design Guidelines; and (v) the other standards set forth within this Declaration or the Design Guidelines. The Committee is authorized to request the submission of samples of proposed construction materials or colors or proposed exterior surfaces.

(c) Procedure. Final plans and specifications shall be submitted in duplicate to the Committee by the Owner for approval or disapproval. If such plans and specifications meet the approval of the Committee, one complete set of plans and specifications will be retained by the Committee and the other complete set of plans will be marked "Approved" and returned to the Owner. If such plans and specifications do not meet the approval of the Committee, one set of such plans and specifications shall be returned marked "Disapproved," accompanied by a reasonable statement of the reasons for such disapproval. Any modification or change to the approved set of plans and specifications or to construction or reconstruction pursuant thereto which materially affects items (i) through (v) of the preceding Section 8.2(b) must again be submitted to the Committee, for its review and approval. The Committee's approval or disapproval as required herein shall be in writing. If the Committee fails to approve or disapprove such plans and specifications within thirty (30) days after they have been submitted to it, then Committee disapproval shall be presumed.

(d) Committee Discretion. The Committee is authorized and empowered to consider and review any and all aspects of Building construction, construction of other improvements and location, quality and quantity of landscaping on any Multi-Family Lot or Flex-Use Lot, and may disapprove aspects thereof which may, in the discretion of the Committee, adversely affect the living enjoyment or intended use of one or more Owner(s) of its/their Lots or the value of the Property. Also, the Committee is permitted to consider technological advance in design and materials and such comparable or alternative techniques, methods or materials may or may not be permitted, in accordance with the reasonable opinion of the Committee. The action of the Committee with respect to any matter submitted to it shall be final and binding upon the Owner submitting such matter, subject to the provisions of Article XI hereof.

(e) Common Improvements. Declarant shall not be required to obtain Committee approval of the initial Common Improvements. The Recreational Facility Land Owner shall not be required to obtain Committee approval of any Recreational Facilities located on the Recreational Facility Land.

8.3 Variances. Upon submission of a written request for same, the Committee may, from time to time, in its sole discretion, permit Owners to construct, erect, or install improvements which are in variance from the Design Guidelines or covenants or restrictions provided in this Declaration or the Design Guidelines then in effect. In any such case, variances shall be in basic conformity with and shall blend effectively with the overall quality, general architectural style and design of the community. No member of the Committee shall be liable to any Owner for any claims, cause of action, or damages arising out of the grant of, or the refusal to grant, any variance to an Owner. Each request for a variance submitted hereunder shall be reviewed separately and apart from other such requests and the granting of a variance to any Owner shall not constitute a waiver of the Committee's right to strictly enforce this Declaration against any other Owner.

8.4 Nonconforming and Unapproved Improvements. The Board of Directors may require any Owner to restore such Owner's improvements to the condition existing prior to the construction thereof (including, without limitation, the demolition and removal of any unapproved improvement) if such improvements were commenced or constructed in violation of this Declaration, including the Design Guidelines. In addition, the Board of Directors may, in its sole discretion, cause the Association to carry out such restoration, demolition and removal if the Owner fails to do so. The Board of Directors may levy the amount of the cost of such restoration, demolition and removal as a special assessment against the Lot upon which such improvements were commenced or constructed (without the necessity of Member approval) and shall have all the rights and remedies to enforce collection thereof provided by law and by this Declaration. Buildings or other improvements initially constructed in accordance with these Covenants and having received any necessary approval of the Architectural Control Committee in connection with their initial construction, may be repaired, maintained and restored in accordance with the standards in force at the time of their initial construction, notwithstanding any subsequent amendment or revision of these Covenants, the Design Guidelines or the Design Guidelines, subject to any restrictions or requirements of the City or other legal requirements. If such Buildings or other improvements are totally destroyed or totally replaced, the new Buildings or other new improvements must conform to the Covenants, the Design Guidelines, and the Design Guidelines in force at the time of their construction, subject to any restrictions or requirements of the City or other legal requirements.

8.5 Intentionally omitted.

8.6 No Liability. Neither Declarant, the Association, the Committee, the Board of Directors, nor the officers, directors, members, employees or agents of any of them, shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any Owner by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications and every Owner agrees that he will not bring any action or suit against Declarant, the Association, the Committee, the Board of Directors, or the officers, directors, members, employees or agents of any of them, to recover any such damages and hereby releases, remises, and quitclaims all claims, demands and causes of action arising out of or in connection with any actual or alleged mistake of judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given. Approval of plans and specifications by the Committee is not approval thereof for engineering or structural design or adequacy of materials. By approving such plans and specifications neither the Committee, the members thereof, the Declarant, the Association nor the Board of Directors assumes liability or responsibility for safety or adequacy of design, compliance with the Design Guidelines or these Covenants, or for any defect to any structure constructed from such plans and specifications.



## ARTICLE IX

### INSURANCE AND INDEMNITY

9.1 Association Insurance Coverage. The Association shall obtain insurance coverage on the Property in accordance with the following provisions:

(a) Purchasing Policies; Primary Coverage. The Board of Directors or its duly authorized agent shall have the authority to purchase and shall purchase insurance policies upon the Property sufficient to provide the coverages required by this Section 9.1, for the benefit of the Association and the Owners and their mortgagees, as their interest may appear, and provisions shall be made for the issuance of certificates of mortgage endorsements to the mortgagees of Owners. All policies shall be written with a company licensed to sell insurance in the State of Texas. Except as provided in Section 9.3, in no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Owners, Lot occupants, or their mortgagees, and the insurance carried by the Association shall be primary.

(b) Casualty.

(i) Common Properties. All buildings and improvements upon the Common Properties and all personal property of the Association located in or upon the Common Properties and/or used to maintain the Common Properties (but specifically excluding any Lots or Buildings and other improvements thereon) shall be insured by the Association (or with respect to the Recreational Facility Land, by the easement interest by the Recreational Facility Land Easement herein granted, if and to the extent insurable) in an amount equal to one hundred percent (100%) insurable replacement value as determined annually by the Association with the assistance of the insurance company providing coverage. Such insurance shall be charged as a common expense to all Owners and shall be included in the Regular Assessment. Such coverage shall provide protection against:

(A) Loss damage by fire and other hazards covered by a standard extended coverage endorsement; and

(B) Such other risks, as determined from time to time, as are customarily covered by casualty policies with respect to buildings of the type then existing on the Common Properties.

(ii) Lots. **EACH OWNER OF A LOT, BUILDING OR OTHER IMPROVEMENTS THEREON WHICH ARE LOCATED ON LOTS SHALL BE SOLELY LIABLE AND RESPONSIBLE FOR OBTAINING ITS OWN POLICIES OF INSURANCE ON SUCH OWNER'S LOT, BUILDING OR OTHER IMPROVEMENTS. THE ASSOCIATION SHALL HAVE NO OBLIGATION TO CARRY CASUALTY INSURANCE ON ANY**

**BUILDINGS OR OTHER IMPROVEMENTS LOCATED ON LOTS FOR  
OR ON BEHALF OF ANY OWNER AND NO LIABILITY THEREFOR.**

(c) Liability. Public liability insurance shall be secured by the Association with limits of liability of not less than One Million Dollars (\$1,000,000.00) per occurrence and shall include an endorsement to cover liability of the Owners as a group to a single Owner. There shall also be obtained such other insurance coverage as the Association shall determine from time to time to be necessary or desirable.

(d) Policy Terms. The Association shall make every reasonable effort to ensure that all policies purchased by the Association contain clauses, endorsements or agreements providing:

(i) for waiver of subrogation;

(ii) that no policy may be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association;

(iii) that the "other insurance" clause in any such policy excludes individual Owners' policies from consideration; and

(iv) for a deductible of no greater than such amount per occurrence as shall from time to time be determined by the Board of Directors.

(e) Premiums. Premiums for insurance policies purchased by the Association shall be paid by the Association and shall be charged to Owners as part of the Regular Assessment described in Article VI above.

(f) Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the Owners and their mortgagees, as their interest may appear, and shall provide that all proceeds thereof shall be payable to the Association as insurance trustee under this Declaration. Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board of Directors, provided, however, that no mortgagee having an interest in such losses shall be prohibited from participating in the settlement negotiations, if any, related thereto. Upon the payment of proceeds to the Association under any policy, the sole duty of the Association as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purpose stated herein or stated in the bylaws of the Association and for the benefit of the Owners and their mortgagees in the following shares:

(i) Proceeds on account of damage to the Common Properties shall be held for the Association.

(ii) Proceeds on account of damage to Lots shall be held in undivided shares for the Owners to such damaged Lots in proportion to the cost of repairing the damage suffered by each Owner, which cost shall be determined by the Association.

(iii) In the event a mortgagee or lender loss payable endorsement has been issued for any Lot, the share of the Owner shall be held in trust for the mortgagee and the Owner as their interests may appear.

9.2 Distribution of Insurance Proceeds Received by Association. Proceeds of insurance policies received by the Association as insurance trustee shall be distributed to or for the benefit of the beneficial Owners in the following manner:

(a) Expense of the Trust. All expenses of the insurance trustees shall be first paid or provisions made therefor.

(b) Reconstruction or Repair. The remaining proceeds shall be paid to defray the cost incurred by the Association of performing or obtaining the performance of the repairs, reconstruction or replacement of the damaged improvement(s) or other property, and the Association shall ensure that all mechanic's liens, materialmen's liens or other such liens which may result from such reconstruction, replacement or repair work are waived, satisfied or otherwise removed. Any proceeds remaining after defraying such costs shall be distributed as provided in Section 9.1(f).

In the event that the proceeds are insufficient to fully restore, repair or replace the loss or damage, the Association may levy an assessment to cover the deficiency.

## ARTICLE X

### EASEMENTS

10.1 General. All of the Property, including Lots and Common Areas, shall be subject to such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone, and electric power line and other public utilities as shall be established by the Declarant or by its predecessors in title, prior to the subjecting of the Property to this Declaration; and the Association shall have the power and authority to grant and establish upon, over, under, and across the Common Areas conveyed to it, such further easements as are requisite for the convenient use and enjoyment of the Property. In addition, there is hereby reserved in the Declarant and its agents and employees an easement and right of ingress and egress across all Common Areas, now or hereafter existing, for the purpose of construction and repairing of improvements within the Property, including the right of temporary storage of construction materials on said Common Areas.

10.2 Universal Easements. All Lots and the Common Area shall be subject to easements for the encroachment of initial improvements constructed on adjacent Lots by the Declarant and the Common Improvements to the extent that such initial improvements and Common Improvements actually encroach including, but not limited to, such items as overhanging eaves, privacy fences and party walls, and masonry columns constructed by Declarant as part of the perimeter wall or fencing within portions of the Common Area and adjacent Lots. The Declarant

hereby reserves for itself, the Association, the Architectural Control Committee and any Managing Agent an easement and right to enter onto the Common Area and any Common Properties for the purposes of maintenance, repair, and/or replacement of any Common Improvements thereon.

10.3 Reservation of Easements by Declarant. Declarant also reserves access easements over all Lots for construction, either for that Lot or any adjacent Lot or property, and easements over all Common Areas for the installation of public or private utilities and storm drainage (whether subsurface or surface), which easements may serve the Property or any adjacent property or properties (whether such adjacent property is owned by Declarant or a third party).

10.4 Cross Easements. There are non-exclusive reserved non-exclusive cross-access easements for maintenance, repair and construction in favor of Owners of Townhomes which are part of the same Townhome Building for access to and from each others' Townhome Lot on which such Townhome Building is located and the Common Area, if any, adjacent to the Townhome Lots on which such Townhome Building is located; however, this does not include access to approved decks, patios or areas within approved fences.

10.5 Declarant/Association Right to Grant Easements. To the extent Declarant deems it necessary or appropriate to execute and file in the appropriate public records any instrument to specifically evidence, identify and/or establish of record any easement reserved generally herein, Declarant is and shall be authorized to grant such easements, in its own name or in the name of the Association, and to execute and record written evidence of the same, without the approval or joiner of any other party, including, but not limited to, the Association, so long as Declarant holds record title to the Common Area. After the conveyance by Declarant to the Association of record title to the Common Area, any such written easement shall be given, if at all, by the Association and shall require the signature of the President of the Association (or any other duly authorized officer of the Association) or, if not the President or other officer duly authorized, then all of its Directors. Any third-party relying on a written and recorded easement instrument granted either by the Declarant or by the Association shall be entitled to rely upon any and all recitations set forth therein as true and correct statements of fact as to ownership of the Common Area and the authority of the person or party executing such easement instrument, and the same shall be deemed presumptively true, correct and legally binding for all purposes on all properties affected thereby, including any Lot(s) or portion(s) of the Common Area described therein or encumbered thereby.

## ARTICLE XI

### DISPUTE RESOLUTION; LIENS

#### 11.1 Arbitration of Disputes Involving the Declarant.

(a) Arbitration. ANY AND ALL DISPUTES ARISING HEREUNDER BETWEEN AN OWNER AND THE DECLARANT, SHALL BE SUBMITTED TO BINDING ARBITRATION AND NOT TO A COURT FOR DETERMINATION. ARBITRATION SHALL COMMENCE AFTER WRITTEN NOTICE IS GIVEN FROM EITHER PARTY TO THE OTHER, SUCH ARBITRATION SHALL BE ACCOMPLISHED EXPEDITIOUSLY IN GRAYSON COUNTY AND SHALL BE CONDUCTED IN ACCORDANCE WITH THE

RULES OF THE AMERICAN ARBITRATION ASSOCIATION ("AAA"). THE ARBITRATION SHALL BE CONDUCTED BY THREE (3) ARBITRATORS, ONE OF WHOM SHALL BE APPOINTED BY THE OWNER AND ONE OF WHOM SHALL BE APPOINTED BY THE DECLARANT. THE THIRD ARBITRATOR SHALL BE APPOINTED BY THE FIRST TWO ARBITRATORS. THE ARBITRATORS SHALL BE SELECTED FROM A LIST OF ARBITRATORS SUBMITTED BY THE AAA. JUDGMENT UPON THE AWARD RENDERED BY THE ARBITRATORS MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF. ARBITRATION SHALL NOT COMMENCE UNTIL THE PARTY REQUESTING IT HAS DEPOSITED ONE THOUSAND FIVE HUNDRED AND NO/100 U. S. DOLLARS (\$1,500.00) WITH THE ARBITRATORS AS A RETAINER FOR THE ARBITRATORS' FEES AND COSTS. THE PARTY REQUESTING ARBITRATION SHALL ADVANCE SUCH SUMS AS ARE REQUIRED FROM TIME TO TIME BY THE ARBITRATORS TO PAY THE ARBITRATORS' FEES AND COSTS, UNTIL THE PREVAILING PARTY IS DETERMINED OR THE PARTIES HAVE AGREED IN WRITING TO AN ALTERNATE ALLOCATION OF FEES AND COSTS. EACH PARTY SHALL PAY ITS OWN LEGAL FEES AND COSTS AND ANY OTHER FEES INCURRED IN CONNECTION WITH AN ARBITRATION PROCEEDING WHICH ARISES OUT OF OR RELATES IN ANY WAY TO THIS DECLARATION PROVIDED, HOWEVER, THAT THE ARBITRATION PANEL SHALL AWARD THE ARBITRATORS' FEES AND COSTS TO THE PREVAILING PARTY IN ITS ARBITRATION JUDGMENT.

(b) Notwithstanding the Declarant's and Owner's intent to submit any controversy or claim arising out of or relating to this Declaration to arbitration, in the event that a court of competent jurisdiction shall determine or a relevant law shall provide that a particular dispute is not subject to the arbitration provisions in this Section 11.1, then the parties agree to the following provisions: EACH OWNER ACKNOWLEDGES THAT THIS DECLARATION IS A SOPHISTICATED LEGAL DOCUMENT. ACCORDINGLY, JUSTICE WILL BEST BE SERVED IF ISSUES REGARDING THIS DECLARATION ARE HEARD BY A JUDGE IN A COURT PROCEEDING, AND NOT A JURY. EACH OWNER AGREES THAT ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION, WITH RESPECT TO ANY ACTION, PROCEEDING, CLAIM, COUNTERCLAIM, OR CROSSCLAIM, WHETHER IN CONTRACT AND/OR IN TORT (REGARDLESS IF THE TORT ACTION IS PRESENTLY RECOGNIZED OR NOT), BASED ON, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY RELATED TO THIS DECLARATION, ANY COURSE OF CONDUCT, COURSE OF DEALING, VERBAL OR WRITTEN STATEMENT, VALIDATION, PROTECTION, ENFORCEMENT ACTION OR OMISSION OF ANY PARTY SHALL BE HEARD BY A JUDGE IN A COURT PROCEEDING AND NOT A JURY.

11.2 Liens/Validity and Severability; Mortgagees. Violation of or failure to comply with this Declaration shall not affect the validity of any mortgage, lien or other similar security instrument which may then be existing on any Lot. Invalidation of any one (1) or more of the provisions of this Declaration, or any portions thereof, by a judgment or court order shall not affect any of the other provisions or covenants herein contained, which such other provisions and covenants shall remain in full force and effect. No default by an Owner of a Lot under any provision of this Declaration shall affect any existing lien or mortgage on that Lot. A mortgagee

shall not be liable for Assessments made with respect to a Lot during any period in which its only interest in the Lot is that of a mortgagee.

## ARTICLE XII

### GENERAL PROVISIONS

12.1 Duration. The Covenants of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by Declarant, the Association and each Owner and each of their respective legal representatives, heirs, successors and assigns. This Declaration shall be effective for an initial term ending on December 31, 2096, after which time said Covenants shall be automatically extended for successive periods of ten (10) years each unless, at least one (1) year prior to the expiration of the then current term, an instrument terminating this Declaration is signed by Owners of at least sixty-seven percent (67%) of the Lots, and is recorded in the Official Public Records of Grayson County, Texas.

12.2 Amendments. Notwithstanding Section 12.1 of this Article, and in addition to Declarant's rights to amend this Declaration during the Development Period as set forth in Article XIII hereof, this Declaration may be amended or otherwise changed (a) as provided in Section 2.2, or (b) upon the affirmative vote of at least sixty-seven percent (67%) of the outstanding votes of the Members of the Association taken at a meeting of the Members of the Association, duly called at which quorum is present; provided that any amendment to this Declaration during the Development Period shall require the written consent and approval of the Declarant to be effective. Any and all amendments of this Declaration must be recorded in the Official Public Records of Grayson County, Texas to be effective.

12.3 Enforcement. Subject to the provisions of Article XI, these Covenants may be enforced against any person or persons violating or attempting to violate them, by any proceeding at law or in equity, including, without limitation, through actions to enjoin violations, to recover damages, or to enforce any lien created by these Covenants. The failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

12.4 Severability. If any provision of this Declaration is determined by judgment or court order to be invalid, or illegal or unenforceable, the remaining provisions of this Declaration shall remain in full force and effect in the same manner as if such invalid, illegal or unenforceable provision had been deleted from this Declaration by an amendment effective as of the date of such determination.

12.5 References. All references in this Declaration to articles, sections, subsections and paragraphs refer to corresponding articles, sections, subsections, and paragraphs of this Declaration. Heading and titles used herein are for convenience only and shall not constitute substantive provisions of this Declaration. The words "this Declaration," "this instrument," "herein," "hereof," "hereby," "hereunder" and words of similar import refer to this Declaration as a whole and not to any particular provision unless expressly so limited. Words in the singular

form shall be construed to include the plural and vice versa, unless the context otherwise requires. Words in any gender (including the neutral gender) shall include any other gender, unless the context otherwise requires. Examples shall not be construed to limit, expressly or by implication, the matter they illustrate. The word “includes” and its derivatives shall mean “includes, but is not limited to” and corresponding derivative expressions. The word “or” includes “and/or.” All references herein to “\$” or “dollars” shall refer to U.S. Dollars. All exhibits attached to this Declaration are incorporated herein by reference.

12.6 Notices. Any notice required to be given to the Association, or to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly delivered when deposited in the United States mail, postage prepaid, addressed to the last known address of such person as shown by the records of the Association at the time of such mailing, or delivered by other means permitted under the applicable provisions of the Texas Business Organizations Code, as amended from time to time.

12.7 Notices to Mortgagees. Upon written request delivered to the Association by the mortgagee of a Lot, the Association shall send to the requesting mortgagee written notification of any default hereunder affecting the mortgagor or the Lot covered by the mortgage of the requesting mortgagee. Any such request shall be in sufficient detail to enable the Association to determine the affected Lot and Owner and shall set forth the mailing address of the requesting mortgagee.

12.8 Liability Limitations; Indemnification. No Declarant, Member, director, officer or representative of the Association or the Board or the Committee shall be personally liable for the debts, obligations or liabilities of the Association. The directors and officers of the Association shall not be liable for any mistake of judgment, whether negligent or otherwise, except for their own individual willful misfeasance or malfeasance, misconduct, bad faith, intentional wrongful acts or as otherwise expressly provided in the Association dedicatory instruments. Declarant and directors, officers and Committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association, and **THE ASSOCIATION, AS A COMMON EXPENSE OF THE ASSOCIATION, SHALL INDEMNIFY AND HOLD HARMLESS DECLARANT, DIRECTORS, OFFICERS AND MEMBERS OF THE COMMITTEE FROM ANY AND ALL EXPENSES, LOSS OR LIABILITY TO OTHERS ON ACCOUNT OF ANY SUCH CONTRACT OR COMMITMENT (TO THE EXTENT NOT COVERED BY INSURANCE PROCEEDS). IN ADDITION, EACH DIRECTOR AND EACH OFFICER OF THE ASSOCIATION AND EACH MEMBER OF THE COMMITTEE SHALL BE INDEMNIFIED AND HELD HARMLESS BY THE ASSOCIATION, AS A COMMON EXPENSE OF THE ASSOCIATION, FROM ANY EXPENSE, LOSS OR LIABILITY TO OTHERS (TO THE EXTENT NOT COVERED BY INSURANCE PROCEEDS) BY REASONS OF HAVING SERVED AS SUCH DIRECTOR, OFFICER OR COMMITTEE MEMBER AND AGAINST ALL EXPENSES, LOSSES AND LIABILITIES, INCLUDING, BUT NOT LIMITED TO, COURT COSTS AND REASONABLE ATTORNEYS’ FEES, INCURRED BY OR IMPOSED UPON SUCH DIRECTOR, OFFICER OR COMMITTEE MEMBER IN CONNECTION WITH ANY PROCEEDING TO WHICH SUCH PERSON MAY BE A PARTY OR HAVE BECOME INVOLVED BY REASON OF BEING SUCH DIRECTOR, OFFICER OR COMMITTEE MEMBER AT THE TIME ANY SUCH EXPENSES,**

**LOSSES OR LIABILITIES ARE INCURRED SUBJECT TO ANY PROVISIONS REGARDING INDEMNITY CONTAINED IN THE ASSOCIATION'S DEDICATORY INSTRUMENTS, EXCEPT IN CASES WHEREIN THE EXPENSES, LOSSES AND LIABILITIES ARISE FROM A PROCEEDING IN WHICH SUCH DIRECTOR, OFFICER OR COMMITTEE MEMBER IS ADJUDICATED GUILTY OF WILLFUL MISFEASANCE OR WILLFUL MALFEASANCE, WILLFUL MISCONDUCT OR BAD FAITH IN THE PERFORMANCE OF SUCH PERSON'S DUTIES OR INTENTIONAL WRONGFUL ACTS OR ANY ACT EXPRESSLY SPECIFIED IN THE ASSOCIATION'S DEDICATORY INSTRUMENTS AS AN ACT FOR WHICH ANY LIMITATION OF LIABILITY SET FORTH IN THE ASSOCIATION'S DEDICATORY INSTRUMENTS IS NOT APPLICABLE; PROVIDED, HOWEVER, THIS INDEMNITY DOES COVER LIABILITIES RESULTING FROM SUCH DIRECTOR'S, OFFICER'S OR COMMITTEE MEMBER'S NEGLIGENCE.** Any right to indemnification provided herein shall not be exclusive of any other rights to which a director, officer or Committee member, or former director, officer or Committee member, may be entitled. The Association shall have the right to purchase and maintain, as a Common Expense, directors', officers', and Committee members', insurance on behalf of any Person who is or was a director or officer of the Association or the Committee member against any liability asserted against any such Person and incurred by any such Person in such capacity, or arising out of such Person's status as such Person.

12.9 Management of the Association. In the event that the Board elects to contract with a Managing Agent to perform any duties of the Board in accordance with Article V hereof, the Board shall record or cause to be recorded in each county in which the Property is located a management certificate, signed and acknowledged by an officer of the Managing Agent or the Association. An amended management certificate shall be recorded no later than the 30<sup>th</sup> day after the date on which the Association has notice of a change in any information pertaining to the Managing Agent applicable to the Association. Notwithstanding the foregoing or anything to the contrary contained herein, in no event shall the Declarant, the Association and/or their respective officers, directors, employees, and/or agents, or the Board be subject to liability to any Person for a delay in recording or failure to record a management certificate except as otherwise provided by law.

12.10 Termination of and Responsibility of Declarant. If Declarant shall transfer all of its then remaining right, title and interest in and to the Land and shall additionally expressly assign all its rights, benefits and obligations as Declarant hereunder to the transferee of such remaining interest in the Land, then Declarant shall have no further rights or duties hereunder and such rights and duties of Declarant hereunder shall thereupon be enforceable and performable by such transferee of Declarant's rights hereunder.

12.11 City Provisions. All construction within the Property shall also comply with all applicable City ordinances and regulations. If any ordinance or regulation imposed by the City imposes more demanding, extensive or restrictive requirements than those set forth in this Declaration, such requirements shall govern. No ordinance or regulations adopted by the City shall lessen the requirements set forth in these Covenants.

### ARTICLE XIII



## SPECIFIC DECLARANT RIGHTS

13.1 Amendment. The provisions of this Article VIII may not be amended without the express written consent of Declarant (and Declarant's successors and assigns in accordance with the terms hereof).

13.2 No Duty to Annex. Nothing herein contained shall establish any duty or obligation on the part of the Declarant or any Member to annex any Adjacent Land or other property to this Declaration and no owner of the property excluded from this Declaration shall have any right to have such property annexed thereto.

13.3 Effect of Annexation on Class B Membership. In determining the number of Lots owned by the Declarant for the purpose of Class B membership status according to Section 5.3 hereof, the total number of Lots covered by this Declaration and located or to be developed in such Declarant's portion of the Property, including all Lots acquired by the Declarant and annexed thereto, shall be considered. If Class B membership has previously lapsed but annexation of any Adjacent Land or additional property restores the ratio of Lots owned by the Declarant to the number required by Class B membership, such Class B membership shall be reinstated until it expires pursuant to the terms of Section 5.3.

13.4 Specific Declarant Rights to Amend Declaration. During the Development Period, the Declarant may unilaterally amend this Declaration without the joinder or vote of the Board, the Association, the other Owners, or any other party if such amendment is deemed necessary or desirable, in the Declarant's sole judgment for any purpose, including, without limitation, (i) to bring any provisions of this Declaration into compliance with any applicable governmental statute, rule, regulation or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Lots; (iii) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to purchase, insure, or guarantee mortgage loans on the Lots; (iv) to satisfy the requirements of any local, state or federal governmental agency; or (v) to correct or clarify errors, omissions, mistakes or ambiguities contained herein. No amendment pursuant to this paragraph, however, shall adversely affect the title to any Lot unless the Owner affected thereby shall consent in writing.

13.5 Easement/Access Right. The Declarant reserves a general easement over all streets, roads, rights of way, utility, maintenance, landscaping, wall and other easements in the Property and over the Common Area as reasonably necessary for access for the purpose of finishing development of the Property as a subdivision and as otherwise reasonably necessary to affect each Declarant's rights hereunder. Such easements and rights shall expire upon expiration of the Development Period.

13.6 Assignment of Declarant Rights. The Declarant may assign its rights to a successor Declarant hereunder by execution of a written document, recorded in the Official Public Records of Grayson County, Texas, expressly and specifically stating that such Declarant has assigned its rights as such to a designated assignee and declaring such assignee to be a new "Declarant"

hereunder. No Person purchasing or otherwise acquiring one (1) or more Lots shall be considered “Declarant” hereunder, unless Declarant makes an express and specific assignment referenced in and accordance with the terms of the immediately preceding sentence or except in the event of an involuntary disposition of all or any part of the Land owned by Declarant prior to completion of development of the Land as a residential community.

13.7 Declarant’s Right to Install Improvements in Setback and Other Areas. The Declarant, in connection with development of the Property and construction of improvements thereon, reserves the right, but shall have no obligation, to install or construct walls, fences, irrigation systems and other improvements in the setback areas (being the area on, along and/or between the boundary line of a Lot and the building or setback lines applicable to such Lot). If the Declarant exercises such right in a setback area, then such wall, fence, irrigation system, or other improvement shall be the property of the Owner(s) of the Lot(s) adjacent to such improvements or upon which such improvements are located, and (except as may otherwise be expressly provided herein with respect to Townhome Lots) such Owner(s) shall maintain and repair any such improvement unless the applicable Declarant or the Association, by and through the Board, shall advise the Owner(s) in writing of its intent to assume such maintenance and repair obligations. If the Declarant exercises such above-described right in the non-setback areas, then such wall, fence, irrigation system, or other improvement shall be the property of the Association. During the Development Period, the Declarant shall have the right, but not the obligation, to maintain and repair any such non-setback area improvements located on such Declarant’s portion of the Property; otherwise, the Association shall assume the maintenance and repair or it may abandon such improvements at its discretion. If the City requires the maintenance, repair, or removal of any such non-setback area improvements, the Association shall assume such responsibility at its expense. If the Association so abandons such non-setback area improvements or is properly dissolved, then the Owner(s) of the Lot(s) adjacent to such improvements or on which such improvements are located shall assume maintenance and repair at its expense.

13.8 Replatting or Modification of Plat. From time to time, the Declarant reserves the right to replat its Property or to amend or modify the Plat in order to assure harmonious and orderly development of the Property as herein provided. The Declarant may exercise such rights at any time during the Development Period and no joinder of any other Owner shall be required to give effect to such rights, each Owner consenting to the Declarant’s execution of any replat on such Owner’s behalf. However, any such replatting or amendment of the Plat shall be with the purpose of efficiently and economically developing the Property for the purposes herein provided or for compliance with any applicable governmental regulation. The Declarant’s rights under this Section 13.8 shall expire upon expiration of the Development Period.

13.9 Limitation of Declarants’ Liability. The Declarant shall not be responsible or liable for any deficit in the Association’s funds. The Declarant may, but is under no obligation to, subsidize any liabilities incurred by the Association, and the Declarant may, but is not obligated to, lend funds to the Association to enable it to defray its expenses, provided the terms of such loans are on reasonable market conditions at the time.

13.10 Termination of the Declarant’s Responsibilities. In consideration of the Declarant’s deficit funding of the Association, if any, upon the occurrence of any of the following events: (i)

conversion of the Declarant's Class B membership status to Class A membership status; (ii) completion of the Common Properties by the Declarant and conveyance of same to the Association; (iii) assignment of the Declarant's rights hereunder pursuant to Section 13.6; or (iv) expiration of the Development Period, then and in such event the Declarant shall be fully released, relieved and forever discharged from any further duty or obligation to the Association or any of its members as the Declarant by reason of the terms and conditions of this Declaration including any amendments thereof or supplements thereto, save and except the duties and obligations, if any, of the Declarant as a Class A member by reason of the Declarant's continued ownership of one or more Lots, but not otherwise. Further, and without regard to whether or not the Declarant has been released from obligations and duties to the Association, during the Development Period or so long as the Declarant holds record title to at least one (1) Lot and holds same for sale in the ordinary course of business, neither the Association nor its Board, nor any member of the Association shall take any action that will impair or adversely affect the rights of the Declarant or cause the Declarant to suffer any financial, legal or other detriment, including but not limited to, any direct or indirect interference with the sale of Lots. In the event there is a breach of this Section, it is acknowledged that any monetary award which may be available would be an insufficient remedy and therefore, in addition to all other remedies, the Declarant shall be entitled to injunctive relief restraining the Association, its Board or any member of the Association from further breach of this Section.

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IN WITNESS WHEREOF, Declarant has caused this instrument to be executed as of the date first above written.

**DECLARANT:**

TERRA PERPETUA, LLC,  
a Delaware limited liability company

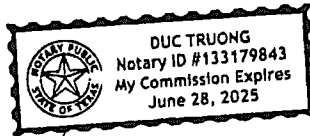
By: [Signature]  
Ronny Guerrero, Authorized Person

STATE OF TEXAS       §  
                                  §  
COUNTY OF Collin   §

BEFORE ME, the undersigned authority, on this day personally appeared Ronny Guerrero, the Authorized Person of TERRA PERPETUA, LLC, a Delaware limited liability company, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in his capacity set forth above and on behalf of said entity.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 30 day of March, 2022.

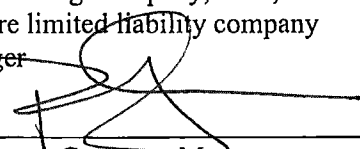
[Signature]  
NOTARY PUBLIC STATE OF TEXAS  
Printed Name: Duc Truong  
My commission expires: 6/28/2025



**ACKNOWLEDGED, CONSENTED TO AND AGREED TO BY RESIDENTIAL OWNER:**

BEL AIR VILLAGE SFR, LLC,  
a Delaware limited liability company

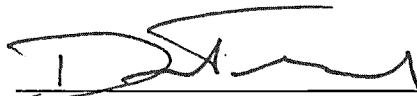
By: Bel Air Building Company, LLC,  
a Delaware limited liability company  
its Manager

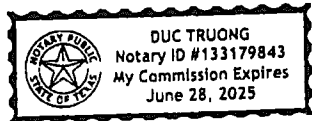
By:   
\_\_\_\_\_  
Ronny Guerrero, Manager

STATE OF TEXAS       §  
                                  §  
COUNTY OF COLLIN   §

BEFORE ME, the undersigned authority, on this day personally appeared Ronny Guerrero, the Manager of Bel Air Building Company, LLC, a Delaware limited liability company, the Manager of BEL AIR VILLAGE SFR, LLC, a Delaware limited liability company, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and as the act and deed of said limited liability company and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 30 day of March, 2022.

  
\_\_\_\_\_  
NOTARY PUBLIC STATE OF TEXAS  
Printed Name: Duc Truong  
My commission expires: 6/28/2025



CONSENT AND SUBORDINATION OF LIENHOLDER

The undersigned, being the beneficiary under that certain Deed of Trust (With Security Agreement and Assignment of Rents) dated August 11, 2021, executed by TERRA PERPETUA, LLC (the "**Borrower**") and recorded on August 11, 2021, as Instrument No. 2021-27209, in the Official Public Records of Grayson County, Texas, together with any modifications, supplements, restatements or amendments thereto, hereby consents to the Master Declaration of Covenants, Conditions and Restrictions for Bel Air Village, Sherman (the "**Declaration**") to be applicable to the Land, in accordance with the terms thereof, and furthermore subordinates its lien rights and interests in and to the Land to the terms, provisions, covenants, conditions and restrictions under the Declaration so that foreclosure of its lien will not extinguish the terms, provisions, covenants, conditions and restrictions under the Declaration.

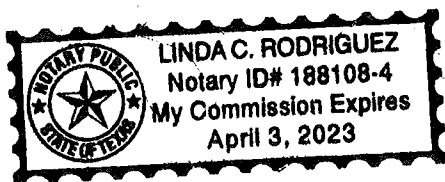
MAPLE MARK BANK,  
a Texas state banking association

By: Daryl S. Kirkham  
Title: Executive Vice President  
Name: Daryl S. Kirkham

STATE OF TEXAS           §  
  §  
COUNTY OF Dallas       §

BEFORE ME, the undersigned authority, on this day personally appeared Daryl S. Kirkham, the Executive Vice President of MAPLE MARK BANK, a Texas state banking association, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same for the purposes and consideration therein expressed, and as the act and deed of said banking association and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 31 day of March, 2022.



Linda C. Rodriguez  
NOTARY PUBLIC STATE OF TEXAS  
Printed Name: LINDA C. RODRIGUEZ  
My commission expires: April 3, 2023

CONSENT AND SUBORDINATION OF LIENHOLDER

The undersigned, being the beneficiary under that certain Deed of Trust with Assignment of Rents, Security Agreement, and Financing Statement dated June 18, 2021, executed by BEL AIR VILLAGE SFR, LLC (the "**Borrower**") and recorded on June 18, 2021, as Instrument No. 2021-20435, in the Official Public Records of Grayson County, Texas, together with any modifications, supplements, restatements or amendments thereto, hereby consents to the Master Declaration of Covenants, Conditions and Restrictions for Bel Air Village, Sherman (the "**Declaration**") to be applicable to the Land, in accordance with the terms thereof, and furthermore subordinates its lien rights and interests in and to the Land to the terms, provisions, covenants, conditions and restrictions under the Declaration so that foreclosure of its lien will not extinguish the terms, provisions, covenants, conditions and restrictions under the Declaration.

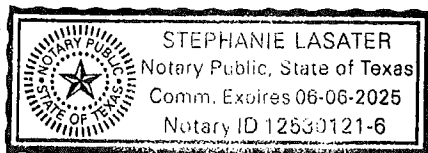
CITY BANK,  
a Texas banking association

By: *JM*  
Title: SVP  
Name: JAMES SHUKIS

STATE OF TEXAS           §  
  §  
COUNTY OF Collin       §

BEFORE ME, the undersigned authority, on this day personally appeared James Shukis, the SVP of CITY BANK, a Texas state banking association, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same for the purposes and consideration therein expressed, and as the act and deed of said banking association and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 6<sup>th</sup> day of April, 2022.



*Stephanie Lasater*  
NOTARY PUBLIC STATE OF TEXAS  
Printed Name: Stephanie Lasater  
My commission expires: 6-6-2025

EXHIBIT A

LEGAL DESCRIPTION OF THE LAND

*[see attached]*



TRACT 1:

## LEGAL DESCRIPTION

Situated in the County of Grayson, State of Texas, being a part of the Sherrod Dunman Survey, Abstract No. 329, and being the same tract of land described as 246.134 acres conveyed by Edward C. Greene, Trustee to Rolling Meadows Associates by deed dated September 28, 1984, recorded in Volume 1716, Page 384, Deed Records, Grayson County, Texas, and being more particularly described by metes and bounds as follows:

Beginning at a point for the most Northerly Northwest corner of the said 246.134 acre tract in the South right-of-way line of F. M. Highway No. 1417 from which a 1/2" steel rod found bears North 15°22'34" West a distance of 0.36 feet, said point also being the Northeast corner of the same tract of land described as 0.84 acres conveyed by Richard J. Self and Brieta Self to Eric Popp and Kelly Popp by deed dated March 20, 2010, recorded in Volume 4809, Page 60, Official Public Records, Grayson County, Texas;

Thence North 75°03'39" East with said right-of-way line a distance of 799.69 feet to a concrete monument at an angle point;

Thence North 71°14'48" East continuing with said right-of-way line a distance of 300.67 feet to an angle point at the Southwest base of a concrete monument;

Thence North 75°03'39" East continuing with said right-of-way line a distance of 814.42 feet to the beginning of a curve to the left having a radius of 11,519.16 feet;

Thence in an Easterly direction continuing with said right-of-way line along said curve, (chord bears North 74°41'09" East, 150.78 feet) an arc distance of 150.79 feet to the end of said curve;

Thence North 74°18'39" East continuing with said right-of-way line a distance of 391.99 feet to a point for the most Northerly Northeast corner of the said 246.134 acre tract at the Southwest base of a cross-tie corner post, said point also being the original Northwest corner of the same tract of land described as 32.55 acres conveyed by Frances Maddox to Ruth Ellen Green by deed dated October 8, 2002, recorded in Volume 3331, Page 760, said Official Public Records, also being the Northwest corner of the same tract of land described as 2.00 acres severed from said 32.55 acre tract as conveyed by said Ruth Ellen Green to said Frances Maddox by deed dated October 8, 2002, recorded in Volume 3331, Page 765, said Official Public Records;

Thence in a Southerly direction with the general course of a fence along the Northerly East line of the said 246.134 acre tract and West line of the said Green and Maddox tracts the following calls and distances:

South 14°55'29" East a distance of 642.51 feet;

South 15°21'36" East a distance of 667.58 feet;

South 17°39'07" East a distance of 284.78 feet;

South 15°20'03" East a distance of 209.84 feet to a 1/2"

steel rod set marking the Southwest corner of the said Maddox tract and an inside "L" corner to the said 246.134 acre tract;

Thence North 75°18'02" East with a fence a distance of 430.04 feet to a 1/2" steel rod set marking the most Easterly Northeast corner of the said 246.134 acre tract and the Southeast corner of the said Maddox tract in the West right-of-way line of the St. Louis & San Francisco Railroad;

Thence South 06°41'02" West with said West right-of-way line a distance of 2152.98 feet to an "L" corner;

Thence North 83°18'58" West a distance of 75.00 feet to an "L" corner;

Thence South 06°41'02" West continuing with said West right-of-way line a distance of 843.85 feet to a 1/2" steel rod set marking the Southeast corner of the said 246.134 acre tract and the Northeast corner of the same tract of land described as 82.032 acres conveyed by Sherman Development Partnership No. 1 to Sam H. Berry by deed dated October 1, 1993, recorded in Volume 2298, Page 258, Real Property Records, Grayson County, Texas, also being the original Easterly Northeast corner of the same tract of land described as 240.9284 acres conveyed by International Business Machines Corporation to Fisher Controls Company, Inc. by deed dated June 30, 1976, recoded in Volume 1349, Page 493, said Deed Records;

Thence North 67°19'54" West with the Southwesterly line of the said 246.134 acre tract, passing the Northwest corner of the said 82.032 acre tract and continuing for a total distance of 1879.15 feet to a 1/2" steel rod found at an angle point;

Thence North 49°31'48" West continuing with said Southwesterly line, passing the Northeast corner of Block 1, Lot 1, Blalock Industrial Park, an addition to the City of Sherman as shown by plat of record in Volume 8, Page 92, Plat Records, Grayson County, Texas, also being the Southeast corner of the same tract of land described as 25.264 acres conveyed by said Sherman Development Partnership No. 1 to Liberty Trust Company, Ltd. by deed dated February 7, 2017, recorded in Volume 5948, Page 836, said Official Public Records, and continuing for a total distance of 1553.66 feet to a 1/2" steel rod found at an angle point;

Thence North 14°46'12" West now with the West line of the said 246.134 acre tract and East line of the said 25.264 acre tract, passing the Northeast corner of the said 25.264 acre tract and the Southeast corner of the same tract of land described as 12.166 acres conveyed by Anthony Aleman to Ramanujam K. Vangipuram and Samrajyam Kolluru by deed dated February 10, 2017, recorded in Volume 5948, Page 638, said Official Public Records, and continuing for a total distance of 1146.71 feet to a 1/2" steel rod found maintaining the most Westerly Northwest corner of the said 246.134 acre tract and the Southwest corner of the same tract of land described as 13.41 acres conveyed by Garcha Corporation to Sherman Economic Development Corporation by deed dated August 25, 2015, recorded in Volume 5680, Page 685, said official Public Records;

Thence North 74°28'45" East a distance of 642.18 feet to a 1/2" steel rod found maintaining an inside "L" corner to the said 246.134 acre tract and the Southeast corner of the said 13.41 acre tract;

Thence North 15°22'34" West with the Northerly West line of the said 246.134 acre tract a distance of 959.39 feet to the Point-of-Beginning and containing 245.83 acres of land more or less.

; AND

TRACT 2:

#### Legal Description

Situated in the County of Grayson, State of Texas, being a part of the Sherrod Dunman Survey, Abstract no. 329, and being a part of the land conveyed by M. L. Maddox to C. T. Maddox and J. W. Maddox, by deed dated April 26th, 1965, recorded in Volume 1029, Page 551, Deed Records, Grayson County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a cross-tie corner post at the intersection of the South right-of-way line of F. M. Highway No. 1417 and the West line of the said Maddox tract, said post being common to the Northeast corner of a 251.1845 acre tract of land conveyed by Edward C. Greene, Trustee, to Rolling Meadows Associates, by deed recorded in Volume 1716, Page 384, said Deed Records;

*THENCE in an easterly direction with said right-of-way the following calls and distances:*

*North 74°18'25" East a distance of 243.59 feet to a concrete right-of-way marker;*

*North 80°01'17" East a distance of 803.99 feet to a 1/2" steel rod set at an angle point in said right-of-way;*

*North 74°18'39" East a distance of 95.31 feet to a 1/2" steel rod set at the intersection of the said right-of-way with the West right-of-way line of the Frisco Railroad;*

*THENCE South 06°41'02" West with said railroad right-of-way a distance of 1872.88 feet to a 1/2" steel rod set, said rod maintaining the Southeast corner of the said Maddox tract of land;*

*THENCE South 75°18'02" West with the South line of the said Maddox tract a distance of 430.04 feet to a 1/2" steel rod set at the Southwest corner of the said Maddox tract;*

*THENCE in a Northerly direction with an old fence maintaining the West line of the said Maddox tract the following calls and distances;*

*North 15°20'03" West a distance of 209.84 feet to a point;*

*North 17°39'07" West a distance of 284.78 feet to a point;*

*North 15°21'36" West a distance of 667.58 feet to a point;*

*North 14°55'29" West a distance of 642.51 feet to the Place-of-Beginning and containing 32.545 acres of land more or less...*

SAVE AND EXCEPT:

#### **RECREATIONAL FACILITY LAND**

**BEING** a tract of land situated in the Sharrod Dunman Survey, Abstract No. 329, City of Sherman, Grayson County, Texas and being a portion of a called 245.83-acre tract of land described in a Special Warranty Deed to Terra Perpetua, LLC, recorded in Instrument No. 2018-3686 of the Official Public Records of Grayson County, Texas, and being more particularly described as follows:

**COMMENCING** at a 1/2-inch iron rod found for the westerly, northwest corner of said 245.83-acre tract, same being the southwest corner of a called 13.41-acre tract of land described in a Warranty Deed to the Sherman Economic Development Corporation, recorded in Volume 5680, Page 685 of the Official Public Records of Grayson County, Texas, same also being on the easterly line of a called 12.166-acre tract of land described in a Warranty Deed to Ramanujam K. Vangipuram and Samrajyam Kolluru, recorded in Volume 5948, Page 638 of the Official Public Records of Grayson County, Texas;

**THENCE** North 74°26'23" East, along the southerly line of said 13.41-acre tract and a northerly line of said 245.83-acre tract, a distance of 641.70 feet to the southeast corner of said 13.41-acre tract, common to an ell corner of said 245.83-acre tract;

**THENCE** North 15°21'02" West, along the easterly line of said 13.41-acre tract and a westerly line of said 245.83-acre tract, a distance of 52.31 feet to the **POINT OF BEGINNING** of the herein described tract;

**THENCE** North 15°21'02" West, continuing along the easterly line of said 13.41-acre tract and a westerly line of said 245.83-acre tract, a distance of 555.01 feet to a point for corner;

**THENCE** North 75°02'53" East, departing the easterly line of said 13.41-acre tract and a westerly line of said 245.83-acre tract, crossing said 245.83-acre tract, a distance of 1,006.93 feet to a point for corner;

**THENCE** South 14°57'07" East, continuing across said 245.83-acre tract, a distance of 16.00 feet to a point for corner;

**THENCE** North 75°02'53" East, continuing across said 245.83-acre tract, a distance of 25.50 feet to a point for corner;

**THENCE** South 14°57'07" East, continuing across said 245.83-acre tract, a distance of 82.00 feet to the beginning of a tangent curve to the left with a radius of 61.00 feet, a central angle of 70°51'38", and a chord bearing and distance of South 50°22'56" East, 70.72 feet;

**THENCE** in a southeasterly direction, continuing across said 245.83-acre tract, with said tangent curve to the left, an arc distance of 75.44 feet to a point for corner;

**THENCE** South 14°57'07" East, continuing across said 245.83-acre tract, a distance of 399.37 feet to a point for corner;

**THENCE** South 75°02'53" West, continuing across said 245.83-acre tract, a distance of 1,069.57 feet to the **POINT OF BEGINNING** and containing 13.511 acres (588,533 square feet) of land, more or less.

**EXHIBIT B**

**CERTIFICATE OF FORMATION, ORGANIZATIONAL CONSENT AND BYLAWS OF  
BEL AIR VILLAGE MASTER PROPERTY OWNERS ASSOCIATION, INC.**

[to be attached]

Corporations Section  
P.O.Box 13697  
Austin, Texas 78711-3697



John B. Scott  
Secretary of State

## Office of the Secretary of State

### CERTIFICATE OF FILING OF

BEL AIR VILLAGE MASTER PROPERTY OWNERS' ASSOCIATION, INC.  
File Number: 804419583

The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Nonprofit Corporation has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 01/27/2022

Effective: 01/27/2022



A handwritten signature in black ink, appearing to read "John B. Scott".

John B. Scott  
Secretary of State

**CERTIFICATE OF FORMATION  
OF**

**BEL AIR VILLAGE MASTER PROPERTY OWNERS' ASSOCIATION, INC.**

The undersigned natural person, being of the age of eighteen (18) years or more, a citizen of the State of Texas, acting as organizer of a non-profit corporation under the Texas Business Organization Code, does hereby adopt the following Certificate of Formation for such non-profit corporation:

**ARTICLE I  
ENTITY NAME AND TYPE**

The filing entity being formed is a non-profit corporation. The name of the entity is: BEL AIR VILLAGE MASTER PROPERTY OWNERS' ASSOCIATION, INC. (hereinafter called the "Association").

**ARTICLE II  
DURATION**

The Association shall exist perpetually.

**ARTICLE III  
PURPOSE AND POWERS OF THE ASSOCIATION**

The Association is organized in accordance with, and shall operate for nonprofit purposes pursuant to, the Texas Business Organization Code, and does not contemplate pecuniary gain or profit to its members. The Association is formed for the purpose of exercising all of the powers and privileges, and performing all of the duties and obligations, of the Association as set forth in that certain "Master Declaration of Covenants, Conditions, and Restrictions for Bel Air Village" recorded or to be recorded in the Official Public Records of Grayson County, Texas, as the same may be amended from time to time (the "Declaration"). Without limiting the generality of the foregoing, the Association is organized for the following general purposes:

- (a) to fix, levy, collect, and enforce payment by any lawful means all charges or assessments arising pursuant to the terms of the Declaration;
- (b) to pay all expenses incident to the conduct of the business of the Association, including all licenses, taxes, or governmental charges levied or imposed against the Association's property;
- (c) to have and to exercise any and all powers, rights, and privileges which a corporation organized under the Texas Business Organization Code may now, or later, have or exercise; and
- (d) to have an exercise all rights and powers conferred upon property associations by any and all applicable law, in effect from time to time; and

The above statement of purposes shall be construed as a statement of both purposes and powers. The purposes and powers stated in each of the clauses above shall not be limited or restricted by reference to, or inference from, the terms and provisions of any other such clause, but shall be broadly construed as independent purposes and powers.

**ARTICLE IV  
INITIAL MAILING ADDRESS**

The initial mailing address of the Association to which state franchise tax correspondence should be sent is c/o Essex Association Management, LP, 1512 Crescent Drive, Suite 112, Carrollton, TX 75006, Attention: Ron Corcoran.

**ARTICLE V  
REGISTERED OFFICE; REGISTERED AGENT**

The street address of the initial registered office of the Association is c/o Essex Association Management, LP, 1512 Crescent Drive, Suite 112, Carrollton, TX 75006. The name of its initial registered agent at such address is Ron Corcoran.

**ARTICLE VI  
MEMBERSHIP**

Membership in the Association shall be dependent upon ownership of a qualifying property interest as defined and set forth in the Declaration. Any person or entity acquiring such a qualifying property interest shall automatically become a member of the Association, and such membership shall be appurtenant to, and shall run with, the property interest. The foregoing shall not be deemed or construed to include persons or entities holding an interest merely as security for performance of an obligation. Membership may not be severed from or in any way transferred, pledged, mortgaged, or alienated except together with the title to the qualifying property interest, and then only to the transferee of title to said property interest. Any attempt to make a prohibited severance, transfer, pledge, mortgage, or alienation shall be void.

**ARTICLE VII  
VOTING RIGHTS**

Voting rights of the members of the Association shall be determined as set forth in the Declaration. No owner, other than the Declarant under the Declaration, shall be entitled to vote at any meeting of the Association until such owner has presented to the Association evidence of ownership of a qualifying property interest in the Property. The vote of each owner may be cast by such owner or by proxy given to such owner's duly authorized representative.

**ARTICLE VIII  
ORGANIZER**

The name and street address of the organizer is:



NAMEADDRESS

Hilary Tyson

2925 Richmond Ave., 14<sup>th</sup> Floor  
Houston, Texas 77098

**ARTICLE IX  
BOARD OF DIRECTORS**

The affairs of the Association shall be managed by an initial Board of Directors consisting of three (3) individuals, who need not be members of the Association. The Board shall fulfill all of the functions of, and possess all powers granted to, Boards of Directors of nonprofit corporations pursuant to the Texas Business Organization Code. The number of Directors of the Association may be changed in accordance with the terms of the Declaration or by amendment of the Bylaws of the Association. The names and addresses of the persons who are to act in the capacity of initial Directors until the selection of their successors are:

NAMEADDRESS

Ronny Guerrero

2500 N. Dallas Parkway, Suite 424  
Plano, Texas 77093

Lisa Guerrero

2500 N. Dallas Parkway, Suite 424  
Plano, Texas 77093

Matt Hood

2500 N. Dallas Parkway, Suite 424  
Plano, Texas 77093

All of the powers and prerogatives of the Association shall be exercised by the initial Board of Directors named above.

**ARTICLE X  
LIMITATION OF DIRECTOR LIABILITY**

A director of the Association shall not be personally liable to the Association for monetary damages for any act or omission in his capacity as a director, except to the extent otherwise expressly provided by a statute of the State of Texas. Any repeal or modification of this Article shall be prospective only, and shall not adversely affect any limitation of the personal liability of a director of the Association existing at the time of the repeal or modification.

**ARTICLE XI  
INDEMNIFICATION**

Each person who acts as a director or officer of the Association shall be indemnified by the Association against any costs, expenses and liabilities which may be imposed upon or reasonably incurred by him in connection with any civil or criminal action, suit or proceeding in

which he may be named as a party defendant or in which he may be a witness by reason of his being or having been such director or officer or by reason of any action alleged to have been taken or omitted by him in either such capacity. Such indemnification shall be provided in the manner and under the terms, conditions and limitations set forth in the Bylaws of the Association.

**ARTICLE XII  
DISSOLUTION**

The Association may be dissolved with the written and signed assent of not less than sixty-seven percent (67%) of the total number of votes of the Association, as determined under the Declaration, and with the written consent and joinder of Declarant during the Development Period (as such terms are defined in the Declaration). Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed, and assigned to any nonprofit corporation, association, trust, or other organization to be devoted to such similar purposes.

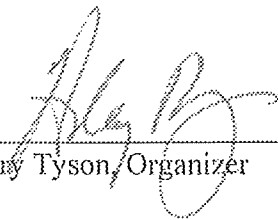
**ARTICLE XIII  
ACTION WITHOUT MEETING**

Any action required by law to be taken at any annual or special meeting of the members of the Association, or any action that may be taken at any annual or special meeting of the members of the Association, may be taken without a meeting, without prior notice, and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the number of members having the total number of votes of the Association necessary to enact the action taken, as determined under the Declaration or this Certificate.

**ARTICLE XIV  
AMENDMENT**

Amendment of this Certificate of Formation shall be by proposal submitted to the membership of the Association. Any such proposed amendment shall be adopted only upon an affirmative vote by the holders of a minimum of sixty-seven percent (67%) of the total number of votes of the Association, as determined under the Declaration. In the case of any conflict between the Declaration and this Certificate, the Declaration shall control; and in the case of any conflict between this Certificate and the Bylaws of the Association, this Certificate shall control.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand, effective this 27<sup>th</sup> day of January, 2022.

  
\_\_\_\_\_  
Hilary Tyson, Organizer

Form 424  
(Revised 05/11)

Submit in duplicate to:  
Secretary of State  
P.O. Box 13697  
Austin, TX 78711-3697  
512 463-5555  
FAX: 512/463-5709  
Filing Fee: See instructions



This space reserved for office use.

## Certificate of Amendment

### Entity Information

The name of the filing entity is:

BEL AIR VILLAGE MASTER PROPERTY OWNERS' ASSOCIATION, INC.

State the name of the entity as currently shown in the records of the secretary of state. If the amendment changes the name of the entity, state the old name and not the new name.

The filing entity is a: (Select the appropriate entity type below.)

- |   |   |
|---|---|
| <input type="checkbox"/> For-profit Corporation           | <input type="checkbox"/> Professional Corporation               |
| <input checked="" type="checkbox"/> Nonprofit Corporation | <input type="checkbox"/> Professional Limited Liability Company |
| <input type="checkbox"/> Cooperative Association          | <input type="checkbox"/> Professional Association               |
| <input type="checkbox"/> Limited Liability Company        | <input type="checkbox"/> Limited Partnership                    |

The file number issued to the filing entity by the secretary of state is: 804419583

The date of formation of the entity is: January 27, 2022

### Amendments

#### 1. Amended Name

(If the purpose of the certificate of amendment is to change the name of the entity, use the following statement)

The amendment changes the certificate of formation to change the article or provision that names the filing entity. The article or provision is amended to read as follows:

The name of the filing entity is: (state the new name of the entity below)

The name of the entity must contain an organizational designation or accepted abbreviation of such term, as applicable.

#### 2. Amended Registered Agent/Registered Office

The amendment changes the certificate of formation to change the article or provision stating the name of the registered agent and the registered office address of the filing entity. The article or provision is amended to read as follows:

Registered Agent  
 (Complete either A or B, but not both. Also complete C.)

A. The registered agent is an organization (cannot be entity named above) by the name of:

OR

B. The registered agent is an individual resident of the state whose name is:

<i>First Name</i>	<i>M.I.</i>	<i>Last Name</i>	<i>Suffix</i>
The person executing this instrument affirms that the person designated as the new registered agent has consented to serve as registered agent.			

C. The business address of the registered agent and the registered office address is:

<i>Street Address (No P.O. Box)</i>	<i>City</i>	<i>State</i>	<i>Zip Code</i>
		TX	

**3. Other Added, Altered, or Deleted Provisions**

Other changes or additions to the certificate of formation may be made in the space provided below. If the space provided is insufficient, incorporate the additional text by providing an attachment to this form. Please read the instructions to this form for further information on format.

Text Area (The attached addendum, if any, is incorporated herein by reference.)

Add each of the following provisions to the certificate of formation. The identification or reference of the added provision and the full text are as follows:

Alter each of the following provisions of the certificate of formation. The identification or reference of the altered provision and the full text of the provision as amended are as follows:

See Attached Addendum.

Delete each of the provisions identified below from the certificate of formation.

**Statement of Approval**

The amendments to the certificate of formation have been approved in the manner required by the Texas Business Organizations Code and by the governing documents of the entity.

**Effectiveness of Filing** (Select either A, B, or C.)

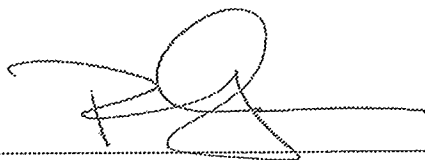
- A.  This document becomes effective when the document is filed by the secretary of state.
- B.  This document becomes effective at a later date, which is not more than ninety (90) days from the date of signing. The delayed effective date is: \_\_\_\_\_
- C.  This document takes effect upon the occurrence of a future event or fact, other than the passage of time. The 90<sup>th</sup> day after the date of signing is: \_\_\_\_\_

The following event or fact will cause the document to take effect in the manner described below:

**Execution**

The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

Date: 03/30/2022

By: 

\_\_\_\_\_  
Signature of authorized person

Ronny Guerrero, President  
Printed or typed name of authorized person (see instructions)

ADDENDUMArticle IX  
BOARD OF DIRECTORS

The affairs of the Association shall be managed by an initial Board of Directors consisting of three (3) individuals, who need not be members of the Association. The Board shall fulfill all of the functions of, and possess all powers granted to, Boards of Directors of nonprofit corporations pursuant to the Texas Business Organizations Code. The number of Directors of the Association may be changed in accordance with the terms of the Declaration or by amendment of the Bylaws of the Association. The names and addresses of the persons who are to act in the capacity of initial Directors until the selection of their successors are:

<u>NAME</u>	<u>ADDRESS</u>
Ronny Guerrero	2800 Dallas Parkway, Suite 324, Plano, Texas 75093
Lisa Guerrero	2800 Dallas Parkway, Suite 324, Plano, Texas 75093
Matt Hood	2800 Dallas Parkway, Suite 324, Plano, Texas 75093

All of the powers and prerogatives of the Association shall be exercised by the initial Board of Directors named above.

**CONSENT OF DIRECTORS IN LIEU OF  
ORGANIZATIONAL MEETING  
OF  
BEL AIR VILLAGE MASTER PROPERTY OWNERS' ASSOCIATION, INC.**

The undersigned, being all of the members of the Board of Directors of BEL AIR VILLAGE MASTER PROPERTY OWNERS' ASSOCIATION, INC., a Texas non-profit corporation (hereinafter referred to as the "Association"), do hereby consent, pursuant to the Texas Business Organization Code, to the adoption of the following resolutions:

**1. DIRECTORS**

RESOLVED, that each of the undersigned, being all of the directors of the Association, as named in its Certificate of Formation filed with the Secretary of State of the State of Texas on January 27, 2022, does hereby accept appointment to such office and does hereby agree to serve as a director of the Association until the first annual meeting of the members and until said director's successor or successors have been duly elected and qualified or until his or her earlier death, resignation, retirement, disqualification or removal from office.

**2. BYLAWS**

RESOLVED, that the form of bylaws attached hereto as Exhibit A, are approved and adopted as the Bylaws of the Association, and the Secretary of the Association is instructed to insert the original thereof in the minute book of the Association.

**3. OFFICERS**

RESOLVED, that each of the following-named persons be and they hereby are elected as officers of the Association for the office or offices set forth below opposite his or her name, and to hold any such office to which elected until the first annual meeting of the Board of Directors of the Association and until his or her successor should be chosen and qualified in his or her stead, or until his or her earlier death, resignation, retirement, disqualification or removal from office:

Ronny Guerrero	-	President
Matt Hood	-	Vice President
Lisa Guerrero	-	Secretary/Treasurer

**4. REGISTERED OFFICE; REGISTERED AGENT**

RESOLVED, that the registered office of the Association be established and maintained at c/o Essex Association Management, LP, 1512 Crescent Drive, Suite 112, Carrollton, TX 75006 and that Ron Corcoran is hereby appointed as registered agent of the corporation in said office.

### 5. BOOKS AND RECORDS

RESOLVED, that the Secretary of the Association be and hereby is authorized and directed to procure all necessary books and records of the Association.

### 6. ORGANIZATIONAL EXPENSES

RESOLVED, that the President of the Association or other officer be and hereby is authorized and directed to pay all fees, expenses and costs incident to or necessary for the incorporation and organization of the Association and to reimburse any person who may have paid any of such fees, expenses and costs.

### 7. CORPORATE SEAL

RESOLVED, that a corporate seal is not adopted at this time and that no impression of a corporate seal is required on any Association document.

### 8. DEPOSITORY RESOLUTIONS

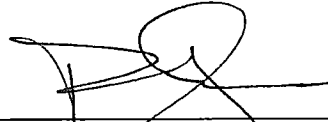
RESOLVED, that an account shall be established in the name of the Association with a financial institution to be determined by the Board (the "Bank"), under the rules and regulations as prescribed by said Bank wherein may be deposited any of the funds of this Association, whether represented by cash, checks, notes or other evidences of debt, and from which deposit withdrawals are hereby authorized in the name of the Association by any one of the following persons:

Ronny Guerrero, President  
Matt Hood, Vice President  
Lisa Guerrero, Secretary/Treasurer  
Ron Corcoran, Managing Agent for Essex Association  
Management, LP

BE IT FURTHER RESOLVED, that the Bank is hereby authorized to honor any and all withdrawal items against the Association's funds, although payable to the officer or agent signing or countersigning the same and whether presented for encashment or for credit to the personal account of such officer or agent or any other person, and said Bank need make no inquiry concerning such items and/or the disposition of the money, items, or credit given therefor.



IN WITNESS WHEREOF, the undersigned have executed this instrument as of and effective the 27<sup>th</sup> day of January, 2022.



\_\_\_\_\_  
Ronny Guerrero, Director



\_\_\_\_\_  
Lisa Guerrero, Director



\_\_\_\_\_  
Matt Hood, Director

**EXHIBIT A**

**Bylaws**

[See Attached]

**BYLAWS  
OF  
BEL AIR VILLAGE MASTER PROPERTY OWNERS' ASSOCIATION, INC.**

**ARTICLE I  
INTRODUCTION**

The name of the corporation is Bel Air Village Master Property Owners' Association, Inc., a Texas non-profit corporation, hereinafter referred to as the "Association". The principal office of the Association shall be located in Grayson County, Texas, but meetings of Members and Directors may be held at such places within the State of Texas, as may be designated by the Board of Directors.

The Association is organized to be a nonprofit corporation.

Notwithstanding anything to the contrary in these Bylaws, a number of provisions are modified by the Declarant's reservations in that certain Master Declaration of Covenants, Conditions and Restrictions for Bel Air Village recorded or to be recorded in in the Official Public Records of Grayson County, Texas, including the number, qualification, appointment, removal, and replacement of Directors.

**ARTICLE II  
DEFINITIONS**

Unless the context otherwise specifies or requires, the following words and phrases when used in these Bylaws shall have the meanings hereinafter specified:

**Section 2.1. Assessment.** "Assessment" or "Assessments" shall mean assessment(s) levied by the Association under the terms and provisions of the Declaration.

**Section 2.2. Association.** "Association" shall mean and refer to Bel Air Village Master Property Owners' Association, Inc., a Texas non profit corporation.

**Section 2.3. Association Property.** "Association Property" shall mean all real or personal property now or hereafter owned by the Association, including without limitation, all easement estates, licenses, leasehold estates and other interests of any kind in and to real or personal property which are now are hereafter owned or held by the Association.

**Section 2.4. Association Restrictions.** "Association Restrictions" shall mean the Master Declaration of Covenants, Conditions and Restrictions for Bel Air Village, as the same may be amended from time to time, together with the Certificate, Bylaws, and Association Rules from time to time in effect.

**Section 2.5. Association Rules.** "Association Rules" shall mean the rules and regulations adopted by the Board pursuant to the Declaration, as the same may be amended from time to time.

**Section 2.6. Board.** "Board" shall mean the Board of Directors of the Association.

**Section 2.7. Bylaws.** “Bylaws” shall mean these Bylaws of the Association which may be adopted by the Board and as the same may be amended from time to time.

**Section 2.8. Certificate.** “Certificate” shall mean the Certificate of Formation of Bel Air Village Master Property Owners’ Association, Inc., a Texas non-profit corporation, filed in the office of the Secretary of State of the State of Texas, as the same may from time to time be amended.

**Section 2.9. Declarant.** “Declarant” shall mean TERRA PERPETUA, LLC, a Delaware limited liability company, and its duly authorized representatives or their successors or assigns; provided that any assignment of the rights of Declarant must be expressly set forth in writing and the mere conveyance of a portion of the Property without written assignment of the rights of Declarant shall not be sufficient to constitute an assignment of the rights of Declarant hereunder.

**Section 2.10. Declaration.** “Declaration” shall mean the “Master Declaration of Covenants, Conditions and Restrictions for Bel Air Village”, recorded or to be recorded in the Official Public Records of Grayson County, Texas, as the same may be amended from time to time.

**Section 2.11. Development.** “Development” shall mean and refer to the property subject to the terms and provisions of the Declaration.

**Section 2.12. Manager.** “Manager” shall mean the person, firm, or corporation, if any, employed by the Association pursuant to the Declaration and delegated the duties, powers, or functions of the Association.

**Section 2.13. Member.** “Member” or “Members” shall mean any person(s), entity or entities holding membership privileges in the Association as provided in the Declaration.

**Section 2.14. Mortgage.** “Mortgage” or “Mortgages” shall mean any mortgage(s) or deed(s) of trust covering any portion of the Property given to secure the payment of a debt.

**Section 2.15. Mortgagee.** “Mortgagee” or “Mortgagees” shall mean the holder or holders of any lien or liens upon any portion of the Property.

**Section 2.16. Owner.** “Owner” or “Owners” shall mean the person(s), entity or entities, including Declarant, holding a fee simple interest in any Lot, but shall not include the Mortgagee of a Mortgage.

### ARTICLE III MEETING OF MEMBERS

**Section 3.1. Annual Meetings.** The first annual meeting of the Members shall be held on such date as selected by the Board of Directors which is on or before the date on which the Development Period expires pursuant to the terms of the Declaration, and each subsequent regular annual meeting of the Members shall be held on the same day of the same month of each

year thereafter unless a different date is selected by the Board of Directors. If the day for the annual meeting of the Members is a Saturday, Sunday, or legal holiday, the meeting will be held on the first day following which is not a Saturday, Sunday, or legal holiday.

**Section 3.2. Special Meetings.** Special meetings of the Members may be called at any time by the President or by a majority vote of the Board of Directors, or upon written request of the Members (or any Sub-Association Representative) representing at least fifty-one percent (51%) of the votes of all Members of the Association.

**Section 3.3. Place of Meetings.** Meetings of the Association may be held at the Development or at a suitable place convenient to the Members and Sub-Association Representative(s), as determined by the Board.

**Section 3.4. Notice of Meetings.** At the direction of the Board, written notice of meetings of the Association will be given to the Sub-Association Representative for any Members in a Sub-Association, or otherwise directly to Members at least ten (10) days but not more than sixty (60) days prior to the meeting. Notices of meetings will state the date, time, and place the meeting is to be held. Notices will identify the type of meeting as annual or special, and will state the particular purpose of a special meeting. Notices may also set forth any other items of information deemed appropriate by the Board.

**Section 3.5. Voting Member List.** The Board will prepare and make available a list of the Association's voting Members (including those Members represented by any Sub-Association Representative) in accordance with the Texas Business Organization Code and any other applicable legal requirements.

**Section 3.6. Quorum.** The presence at the meeting of Members and any Sub-Association Representative representing Members, entitled to cast, or of proxies entitled to cast, ten percent (10%) of the total votes of the membership shall constitute a quorum for any action, except as otherwise provided in the Certificate, the Declaration, or these Bylaws. If, however, such quorum is not present or represented at any meeting, the Members entitled to vote at the meeting shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented.

**Section 3.7. Proxies.** Votes may be cast in person or by written proxy. Each Sub-Association Representative is hereby granted a proxy to vote on behalf of all Members who are members of the Sub-Association appointing such Sub-Association Representative at each meeting of Members of the Association, and a Sub-Association Representative may cast its votes on behalf of Members he or she is representing in person or by proxy. To be valid, each proxy must: (i) be signed and dated by the Member or the Sub-Association Representative or his/her attorney-in-fact; (ii) identify the Lots or portion of the Property to which the votes of the Member or Sub-Association Representative, as applicable, are appurtenant; (iii) name the person or title (such as "presiding officer") in favor of whom the proxy is granted, such person having agreed to exercise the proxy; (iv) identify the meeting for which the proxy is given; (v) not purport to be revocable without notice; and (vi) be delivered to the secretary, to the person presiding over the Association meeting for which the proxy is designated, or to a person or company designated by the Board. Unless the proxy specifies a shorter or longer time, it

terminates eleven (11) months after the date of its execution. Other than the proxy hereby given to the Sub-Association Representative by Members who are members of the Sub-Association that appointed such Sub-Association Representative pursuant to these bylaws, perpetual or self-renewing proxies are permitted, provided they are revocable. To revoke a proxy, the granting Member or Sub-Association Representative, as applicable, must give actual notice of revocation to the person presiding over the Association meeting for which the proxy is designated. Unless revoked, any proxy designated for a meeting which is adjourned, recessed, or rescheduled is valid when the meeting reconvenes. A proxy may be delivered by fax. However, a proxy received by fax may not be counted to make or break a tie-vote unless: (a) the proxy has been acknowledged or sworn to by the Member or Sub-Association Representative, as applicable, before and certified by an officer authorized to take acknowledgments and oaths; or (b) the Association also receives the original proxy within five (5) days after the vote.

**Section 3.8. Conduct of Meetings.** The president, or any person designated by the Board, presides over meetings of the Association. The secretary keeps, or causes to be kept, the minutes of the meeting which should record all resolutions adopted and all transactions occurring at the meeting, as well as a record of any votes taken at the meeting. The person presiding over the meeting may appoint a parliamentarian. Votes should be tallied by tellers appointed by the person presiding over the meeting.

**Section 3.9. Order of Business.** Unless the notice of meeting states otherwise, or the assembly adopts a different agenda at the meeting, the order of business at meetings of the Association is as follows:

- Determine votes present by roll call or check-in procedure
- Announcement of quorum
- Proof of notice of meeting
- Approval of minutes of preceding meeting
- Reports of Officers (if any)
- Election of Directors (when required)
- Unfinished or old business
- New business

**Section 3.10. Adjournment of Meeting.** At any meeting of the Association, the presence of any Members and Sub-Association Representatives collectively representing a majority of the Members, either in person or by proxy, may adjourn the meeting to another time and place.

**Section 3.11. Action without Meeting.** Subject to Board approval, any action which may be taken by a vote of the Members and any Sub-Association Representative (on behalf of Members it represents) at a meeting of the Association may also be taken without a meeting by written consents. The Board may permit Members and Sub-Association Representatives to vote by any method allowed by the Texas Business Organization Code, which may include hand delivery, United States Mail, facsimile, e-mail, or any combination of these. Written consents by Member and Sub-Association Representative representing collectively at least a majority of votes of Members in the Association, or such higher percentage as may be required by the

Documents, constitutes approval by written consent. This Section may not be used to avoid the requirement of an annual meeting and does not apply to the election of Directors.

**Section 3.12. Telephone Meetings.** Members and Sub-Association Representatives for the Members of the Association may participate in and hold meetings of the Association by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in the meeting constitutes presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

**Section 3.13 Sub-Association Representative.** The Sub-Association Representative for each portion of the Property affected by a Sub-Declaration shall be elected or appointed, as the case may be, by the majority of the Owners of Lots within such portion of the Property affected by such Sub-Declaration, in accordance with the terms of any Subassociation documents governing the portion of the Property affected by such Sub-Declaration or by written consent or vote of a majority of the owners of Lots within the portion of the Property affected by such Sub-Declaration (which each Owner having an equal vote regardless of the assessed value or square footage of the Lot owned by it). The Sub-Association Representative once elected or appointed by the applicable Owners shall serve until such time as a new Sub-Association Representative is appointed by the Owners of portion of the Property affected by such Sub-Declaration.

#### ARTICLE IV BOARD OF DIRECTORS

##### **Section 4.1. Authority; Number of Directors.**

(a) The affairs of the Association shall be governed by a Board of Directors. The number of Directors shall be fixed by the Board of Directors from time to time. The initial Directors shall be three (3) in number and shall be those Directors named in the Certificate. The initial Directors shall serve until their successors are elected and qualified. All directors shall be appointed by Declarant until the Development Period under the terms of the Declaration expires. Upon expiration of the Development Period, the number of Directors serving on the Board shall increase to five (5) and (i) at least one (1) director on the Board shall be elected by a majority vote of the Members owning, or the Sub-Associations (if formed) applicable to, Residential Lots (directly or through their Sub-Association Representative) (the “**Residential Director**”), (ii) at least three (3) directors on the Board shall be elected by a majority vote of the Members owning, or the Sub-Associations (if formed) applicable to, the Multi-Family Lots (each a “**Multi-Family Director**”), with the person with the highest percentage of Member votes holding the first Multi-Family Director seat, the person holding the next highest percentage of Member votes holding the second Multi-Family Director seat, and the person with the third highest percentage of Member votes holding the third Multi-Family Director seat, and (iii) at least one (1) director on the Board shall be elected by a vote of all of the Members of the Association (the “**At Large Director**”). If the Members owning Residential Lots (directly or through their Sub-Association Representative, if any) fail to elect a Residential Director, the President of the Sub-Association

for the largest number of Residential Lots shall serve as and be deemed to be the Residential Director for the Association.

(c) Each Director, other than Directors appointed by Declarant, shall be a Member and Owner, or in the case of corporate or partnership ownership of any Lot, a duly authorized agent or representative of the corporate or partnership Owner.

**Section 4.2. Compensation.** The Directors shall serve without compensation for such service.

**Section 4.3. Nominations to Board of Directors.** Members may be nominated for election to the Board of Directors in either of the following ways:

(a) A Member who is not a Director and who desires to run for election to that position shall be deemed to have been nominated for election upon his filing with the Board of Directors a written petition of nomination; or

(b) A Director who is eligible to be re-elected shall be deemed to have been nominated for re-election to the position he holds by signifying his intention to seek reelection in a writing addressed to the Board of Directors.

**Section 4.4. Removal of Directors for Cause.** If a Director breaches such Director's duties hereunder or violates the terms of the Declaration, the Certificate, the Association Rules or these Bylaws, such Director may be removed by Declarant unless Declarant no longer has the right to appoint and remove Directors in accordance with Section 4.1 of these Bylaws, and then by a majority vote of the remaining Directors after Declarant's right to appoint and remove Directors has expired. No Director shall have any voting rights nor may such Director participate in any meeting of the Board of Directors at any time that such Director is delinquent in the payment of any Assessments or other charges owed to the Association. Any Director that is ninety (90) days delinquent in the payment of Assessments or other charges more than three (3) consecutive times shall be removed as a Director.

**Section 4.5. Vacancies on Board of Directors.** At such time as Declarant's right to appoint and remove Directors has expired or been terminated, if the office of any elected Director shall become vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, the remaining Directors, at a special meeting duly called for this purpose, shall choose a successor who shall fill the unexpired term of the directorship being vacated. If there is a deadlock in the voting for a successor by the remaining Directors, the one Director with the longest continuous term on the Board shall select the successor. At the expiration of the term of his position on the Board of Directors, the successor Director shall be re-elected or his successor shall be elected in accordance with these Bylaws.

**Section 4.6. Removal of Directors by Members.** Subject to the right of Declarant to nominate and appoint Directors as set forth in Section 4.1 of these Bylaws, an elected Director may be removed, with or without cause, by a majority vote of the Members at any special meeting of the Members of which notice has been properly given as provided in these Bylaws; provided the same notice of this special meeting has also been given to the entire Board of



Directors, including the individual Director whose removal is to be considered at such special meeting.

**Section 4.7. Consent in Writing.** Any action by the Board of Directors, including any action involving a vote on a fine, damage assessment, appeal from a denial or architectural control approval, or suspension of a right of a particular Member before the Member has an opportunity to attend a meeting of the Board of Directors to present the Member's position on the issue, may be taken without a meeting if all of the Directors shall unanimously consent in writing to the action. Such written consent shall be filed in the Minute Book. Any action taken by such written consent shall have the same force and effect as a unanimous vote of the Directors.

## ARTICLE V MEETINGS OF DIRECTORS

**Section 5.1. Regular Meetings.** Regular meetings of the Board shall be held annually or such other frequency as determined by the Board, without notice, at such place and hour as may be fixed from time to time by resolution of the Board.

**Section 5.2. Special Meetings.** Special meetings of the Board shall be held when called by the President of the Association, or by any two Directors, after not less than three (3) days' notice to each Director.

**Section 5.3. Quorum.** A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

**Section 5.4. Telephone Meetings.** Members of the Board or any committee of the Association may participate in and hold meetings of the Board or committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in such meeting constitutes presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

**Section 5.6. Action without a Meeting.** Any action required or permitted to be taken by the Board at a meeting may be taken without a meeting, if all Directors individually or collectively consent in writing to such action. The written consent must be filed with the minutes of Board meetings. Action by written consent has the same force and effect as a unanimous vote.

**ARTICLE VI  
POWERS AND DUTIES OF THE BOARD**

**Section 6.1. Powers.** The Board shall have power and duty to undertake any of the following actions, in addition to those actions to which the Association is authorized to take in accordance with the Declaration:

(a) adopt and publish the Association Rules, including regulations governing the use of the Association Property and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights of a Member and right of a Member to use of the Association Property during any period in which such Member shall be in default in the payment of any Assessment levied by the Association, or after notice and hearing, for any period during which an infraction of the Association Rules by such Member exists;

(c) exercise for the Association all powers, duties and authority vested in or related to the Association and not reserved to the membership by other provisions of the Association Restrictions, including, without limitation, those set forth in Article 3 of the Declaration;

(d) to enter into any contract or agreement with a municipal agency or utility company to provide electric utility service to all or any portion of the Property;

(e) declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board;

(f) employ such employees as they deem necessary, and to prescribe their duties;

(g) as more fully provided in the Declaration, to:

(1) fix the amount of the Assessments against each Lot in advance of each annual assessment period and any other assessments provided by the Declaration; and

(2) foreclose the lien against any property for which Assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same;

(h) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any Assessment has been paid and to levy a reasonable charge for the issuance of these certificates (it being understood that if a certificate states that an Assessment has been paid, such certificate shall be conclusive evidence of such payment);

(i) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(j) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

(k) exercise such other and further powers or duties as provided in the Declaration or by law.

**Section 6.2. Duties.** It shall be the duty of the Board to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members and Sub-Association Representatives at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by Members and Sub-Association Representatives representing Members who are entitled to cast collectively fifty-one percent (51%) of all outstanding votes;

(b) supervise all officers, agents and employees of the Association, and to see that their duties are properly performed; and

(c) perform all duties of the Association or the Board set forth in the Declaration, including, without limitation under Article 3 thereof.

**ARTICLE VII  
OFFICERS AND THEIR DUTIES**

**Section 7.1. Enumeration of Offices.** The officers of the Association shall be a President and a Vice-President, who shall at all times be members of the Board, a Secretary and a Treasurer, and such other officers as the Board may from time to time create by resolution.

**Section 7.2. Election of Officers.** The election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

**Section 7.3. Term.** The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he resigns sooner, or shall be removed or otherwise disqualified to serve.

**Section 7.4. Special Appointments.** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

**Section 7.5. Resignation and Removal.** Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 7.6. Vacancies.** A vacancy in any office may be filled through appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

**Section 7.7. Multiple Offices.** The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 7.4.

**Section 7.8. Duties.** The duties of the officers are as follows:

(a) **President.** The President shall preside at all meetings of the Board; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

(b) **Vice President.** The Vice President or Vice Presidents (including, without limitation, Executive Vice Presidents and Senior Vice Presidents), if any, shall generally assist the President and shall have such powers and perform such duties and services as shall from time to time be prescribed or delegated to him by the President or the Board.

(c) **Secretary.** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses; and shall perform such other duties as required by the Board.

(d) **Assistant Secretaries.** Each Assistant Secretary shall generally assist the Secretary and shall have such powers and perform such duties and services as shall from time to time be prescribed or delegated to him or her by the Secretary, the President, the Board or any committee established by the Board.

(e) **Treasurer.** The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board; shall sign all checks and promissory notes of the Association; keep proper books of account in appropriate form such that they could be audited by a public accountant whenever ordered by the Board or the membership; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular meeting, and deliver a copy of each to the Members.

## ARTICLE VIII OTHER COMMITTEES OF THE BOARD OF DIRECTORS

The Board may, by resolution adopted by affirmative vote of a majority of the number of Directors fixed by these Bylaws, designate two or more Directors (with such alternates, if any, as may be deemed desirable) to constitute another committee or committees for any purpose; provided, that any such other committee or committees shall have and may exercise only the power of recommending action to the Board of Directors and of carrying out and implementing any instructions or any policies, plans, programs and rules theretofore approved, authorized and adopted by the Board.

**ARTICLE IX  
BOOKS AND RECORDS**

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Association Restrictions shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

**ARTICLE X  
ASSESSMENTS**

As more fully provided in the Declaration, each Member is obligated to pay to the Association Assessments which are secured by a continuing lien upon the property against which the Assessments are made. Assessments shall be due and payable in accordance with the Declaration.

**ARTICLE XI  
CORPORATE SEAL**

The Association may, but shall have no obligation to, have a seal in a form adopted by the Board.

**ARTICLE XII  
DECLARANT PROVISIONS**

**Section 12.1. Conflict.** The provisions of this Article control over any provision to the contrary elsewhere in these Bylaws.

**Section 12.2. Board of Directors.** As provided in the Declaration, Declarant is entitled to appoint and remove all members of the Board of Directors until expiration of the Development Period (as defined in the Declaration). Until Declarant's right to appoint all members of the Board of Directors terminates, the Directors appointed by Declarant need not be Owners or residents and may not be removed by the Owners. In addition, Declarant has the right to fill vacancies in any directorship vacated by a Declarant appointee.

**ARTICLE XIII  
AMENDMENTS**

**Section 13.1.** These Bylaws may be amended, (i) on or before the date on which the Development Period expires, by a majority vote or written consent of a majority of the Directors on the Board of Directors of the Association, and approval of Declarant, and thereafter (ii) at a regular or special meeting of the Directors, by a majority vote of the Directors taken at a meeting of the Directors at which quorum is present or majority written consent of all Directors.

**Section 13.2.** In the case of any conflict between the Certificate and these Bylaws, the Certificate shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

**ARTICLE XIV  
INDEMNIFICATION OF DIRECTORS AND OFFICERS**


THE ASSOCIATION SHALL INDEMNIFY EVERY DIRECTOR, SUB-ASSOCIATION REPRESENTATIVE AND OFFICER OF THE ASSOCIATION AGAINST, AND REIMBURSE AND ADVANCE TO EVERY DIRECTOR, SUB-ASSOCIATION REPRESENTATIVE AND OFFICER FOR, ALL LIABILITIES, COSTS AND EXPENSES' INCURRED IN CONNECTION WITH SUCH DIRECTORSHIP, REPRESENTATION OR OFFICE AND ANY ACTIONS TAKEN OR OMITTED IN SUCH CAPACITY TO THE GREATEST EXTENT PERMITTED UNDER THE TEXAS BUSINESS ORGANIZATION CODE AND ALL OTHER APPLICABLE LAWS AT THE TIME OF SUCH INDEMNIFICATION, REIMBURSEMENT OR ADVANCE PAYMENT; PROVIDED, HOWEVER, NO DIRECTOR, SUB-ASSOCIATION REPRESENTATIVE OR OFFICER SHALL BE INDEMNIFIED FOR: (A) A BREACH OF DUTY OF LOYALTY TO THE ASSOCIATION OR ITS MEMBERS; (B) AN ACT OR OMISSION NOT IN GOOD FAITH OR THAT INVOLVES INTENTIONAL MISCONDUCT OR A KNOWING VIOLATION OF THE LAW; (C) A TRANSACTION FROM WHICH SUCH DIRECTOR, SUB-ASSOCIATION REPRESENTATIVE OR OFFICER RECEIVED AN IMPROPER BENEFIT, WHETHER OR NOT THE BENEFIT RESULTED FROM AN ACTION TAKEN WITHIN THE SCOPE OF DIRECTORSHIP, REPRESENTATION OR OFFICE; OR (D) AN ACT OR OMISSION FOR WHICH THE LIABILITY OF SUCH DIRECTOR, SUB-ASSOCIATION REPRESENTATIVE OR OFFICER IS EXPRESSLY PROVIDED FOR BY STATUTE.

**ARTICLE XV  
MISCELLANEOUS**

The fiscal year of the Association shall begin on the first day of January and end on the 31<sup>st</sup> day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

[signature page to follow]

I, the undersigned, being the Secretary of BEL AIR VILLAGE MASTER PROPERTY OWNERS' ASSOCIATION, INC., do hereby certify that the foregoing are the Bylaws of said non-profit corporation, as adopted by the Association's Board of Directors pursuant to a Unanimous Consent of Directors in Lieu of Organizational Meeting of the Corporation dated to be effective as of the 27<sup>th</sup> day of January, 2022.

  
\_\_\_\_\_  
Printed Name: Lisa Guerrero  
Title: Secretary

**EXHIBIT C**

**BEL AIR VILLAGE, SHERMAN, TEXAS  
DESIGN GUIDELINES**

[to be attached]



# **BEL AIR VILLAGE**

## **PLANNED DEVELOPMENT**

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**CITY OF SHERMAN, TEXAS**

**DESIGN TEAM**

**ION DESIGN GROUP, LLC**

7075 Twin Hills Avenue, Suite 350, Dallas, TX 75231

**GFF ARCHITECTS**

808 Fairmount St SUITE 300, Dallas, TX 75201

**REVISED SEPTEMBER 7, 2021**

**ADMINISTRATIVE AMENDMENTS APPROVED NOVEMBER 30, 2021**

A handwritten signature in black ink, appearing to be 'R. H. H.', is written below the administrative approval text.

# BEL AIR VILLAGE PLANNED DEVELOPMENT

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## I. Components of Bel Air Village Planned Development

### A. Introduction

Bel Air Village is a mixed-use community encompassing approximately 278.3 acres east of Highway 75 and immediately south of FM 1417. The Village offers a mix of commercial, residential, and recreational opportunities complemented by almost 14 percent of the land area set aside as parks, open space, trails, buffers, or other village amenities. The use and development regulations set forth in the Development Plan provide for and encourage development that contains a compatible mix of RESIDENTIAL and VILLAGE URBAN CENTER uses in proximity to one another.

*Note: Words shown in all CAPITAL LETTERS are defined in VI. Definitions.*

### B. Village Development Objectives

The Bel Air Village addresses the physical relationship between development and adjacent properties, public streets, neighborhoods, and the natural environment through the following set of development objectives:

- Ensuring buildings relate appropriately to surrounding developments and streets to create cohesive visual identity and attractive street scenes;
- Offering a variety of housing types responsive to current and future residents' desire for a mix of product types based on their demographic and income needs;
- Siting land uses, streets, and pedestrian circulation in a cohesive and complementary layout supportive of the mix of uses and oriented towards the pedestrian realm to enhance and activate streetscapes;
- Applying residential and non-residential architectural FAÇADE elements and finishes;
- Ensuring creation of high quality street and sidewalk environments that are supportive of pedestrian mobility and appropriate to roadway context;
- Creating an enhanced pedestrian realm by the inclusion of wide sidewalks, vegetative avenues and a trail system interconnecting the respective development areas of the village; and,
- Preserving the natural resources of the site to the greatest extent practicable recognizing the value of the floodplain and stream channels as amenities to the development.

### C. Key Village Elements

The following enumerates the key elements of the Bel Air Planned Development:

#### I. Components

A summary of key components covered in the Planned Development, acreages, and overall objectives.

#### II. Use and Building Envelope Standards

The USE and BUILDING ENVELOPE STANDARDS section establishes basic parameters for permitted and prohibited uses, building siting, lot widths, height, stories, and overall densities.

#### III. Architectural Standards

The ARCHITECTURAL STANDARDS section governs the VILLAGE URBAN CENTER and VILLAGE RESIDENTIAL DISTRICTS architectural elements and FAÇADE materials, windows, roofs, service areas and other standards.

#### IV. Lighting, Parking and Signage Standards

The LIGHTING, PARKING and SIGNAGE STANDARDS section establishes the standards for public/private space lighting, provision of adequate parking, and compatible signage.

**V. Landscaping and Park/Open Space and Other Recreation Standards**

The LANDSCAPING and PARK/OPEN SPACE and OTHER RECREATION STANDARDS section addresses required landscaping and other recreation amenities.

**VI. Definitions**

The DEFINITIONS section defines terms used within the Bel Air Village Planned Development.

**VII. Appendices**

The Appendices contain: Appendix A – CONCEPTUAL PLAN MAP; Appendix B – DEVELOPMENT DISTRICT MAP; and Appendix C – STREET CROSS SECTIONS.

**D. Conceptual Plan and Development Districts Maps**

The Bel Air Village Planned Development includes the CONCEPTUAL PLAN MAP depicting the respective land uses and the DEVELOPMENT DISTRICTS MAP identifying the two regulating districts.

**1. Conceptual Plan Map**

- a. The CONCEPTUAL PLAN MAP is a depiction of large land use categories that include residential, commercial, open space and major rights-of-way to be developed within the Bel Air Village Planned Development. (See Appendix A – CONCEPTUAL PLAN MAP)
- b. The allocation of land uses and proposed road network may be modified as specific development plans come forward at DETAILED SITE PLAN.
- c. The table below summarizes generalized land use acreages depicted on the CONCEPTUAL PLAN MAP:

**Summary Table of Bel Air Village Acreages and Uses**

	Acres	%	Units
<b>RESIDENTIAL</b>			
Single-Family Detached & Attached Residential	167.3	60.1	1,900
Mid-Rise Residential & Lagoon Area	51.2	18.4	3,000
<b>COMMERCIAL</b>			
Village Center	4.5	1.6	N/A
<b>OPEN SPACE</b>			
Parks, Open Space, Buffers & Flood Plain Areas	38.6	13.9	N/A
<b>MAJOR RIGHTS-OF-WAY</b>			
Collector Streets (does not include local residential streets)	16.7	6.0	N/A
<b>Total Acres</b>	<b>278.3</b>	<b>100.0%</b>	
<i>Note: Above acreages, units count and percentages are approximate and will be finalized at Site Plan Approval</i>			

**2. Development Districts Map**

The DEVELOPMENT DISTRICTS MAP consists of two districts, the VILLAGE URBAN CENTER DISTRICT and the VILLAGE RESIDENTIAL DISTRICT. (See Appendix B – DEVELOPMENT DISTRICTS MAP).

- a. VILLAGE URBAN CENTER DISTRICT – land designated for development of COMMERCIAL and MID-RISE RESIDENTIAL uses.
- b. VILLAGE RESIDENTIAL DISTRICT – land designated for development of a mix of DETACHED and ATTACHED SINGLE-FAMILY RESIDENTIAL uses.

## II. Use and Building Envelope Standards

### A. Village Urban Center District

#### 1. Permitted and Prohibited Uses

##### a. Permitted uses

- (1) VILLAGE URBAN CENTER uses including BUSINESS SERVICE, OFFICE, PERSONAL SERVICE, RETAIL SERVICE, RETAIL SPECIALTY, RETAIL TRADE, STUDIO USES, restaurants, coffee shops, except where requiring a SPECIFIC USE PERMIT or prohibited by this Ordinance or the City of Sherman's Zoning Ordinance.
- (2) COMMERCIAL INDOOR AMUSEMENT
- (3) HOTEL, FULL-SERVICE or LIMITED-SERVICE
- (4) MID-RISE RESIDENTIAL
- (5) SENIOR/ASSISTED LIVING FACILITY
- (6) SCHOOL, PRIMARY OR SECONDARY
- (7) SKILLED NURSING HOME FACILITY
- (8) RECREATIONAL LAGOON

##### b. Permitted ACCESSORY USES

- (1) AFFILIATED RESIDENTIAL USES
- (2) AMENITY CENTER
- (3) Home Occupations
- (4) PARK/OPEN SPACE
- (5) Special events
- (6) STRUCTURED PARKING

##### c. Uses permitted upon review and approval of a SPECIFIC USE PERMIT

- (1) Alcoholic beverage sales and for any qualified restaurants serving alcoholic beverages on site
- (2) CIVIC BUILDING
- (3) Telephonic, radio, television or microwave, communication antennas and tower

##### d. Prohibited uses

- (1) Check cashing businesses, payday advance/loan businesses, car or motor vehicle title loan businesses, or credit access businesses as defined by applicable provisions of Texas Finance Code.
- (2) Gas wells
- (3) Industrial, manufacturing, and warehousing uses
- (4) Outside storage, unscreened
- (5) Sexually oriented business
- (6) Tattoo parlors
- (7) Vape businesses
- (8) Vehicle-related sales or repair

## 2. Building Lot Dimensional Standards

### a. Dimensional Table

	Min. Lot Width (ft)	Min. Lot Depth (ft)	Min. Front Yard Setback (ft)	Min. Rear Yard Setback (ft)	Min. Side Yard Setback (ft)	Maximum Units /Ac.	Max. Stories	Max. Building Height (ft)	Max. Lot Coverage (%)
Village Urban Center	N/A	N/A	0	0	0	85	5	75'	80

### b. Additional Dimensional Standards

- (1) Permitted lot coverage for uses not listed in the Dimensional Table shall be determined upon approval of a SPECIFIC USE PERMIT or DETAILED SITE PLAN.
- (2) Architectural embellishments not intended for human occupancy that are integral to the architectural style of the buildings, including spires, belfries, towers, cupolas, domes, and roof forms whose area in plain view is no greater than twenty-five percent (25%) of the first floor footprint may exceed the height limits by up to twenty (20) feet.
- (3) Mechanical equipment, including mechanical/elevator equipment enclosures, ventilation equipment, chimneys, exhaust stacks and flues, fire sprinkler tanks, and other similar constructions may extend up to twelve (12) feet above the actual building height, provided that:
  - (a) The equipment is set back from all exterior walls a distance at least equal to the vertical dimension that such item(s) extend(s) above the actual building height; or
  - (b) The exterior wall and roof surfaces of such items that are set back less than the vertical dimension above the actual building shall be constructed as architecturally integral parts of the building FAÇADE(S).

## B. Village Residential District

### 1. Permitted and Prohibited Uses

#### a. Permitted uses

- (1) SINGLE-FAMILY DETACHED RESIDENTIAL (SFD)
- (2) SINGLE-FAMILY ATTACHED RESIDENTIAL (SFA)

#### b. Permitted ACCESSORY USES

- (1) ACCESSORY BUILDING or STRUCTURE
- (2) AFFILIATED RESIDENTIAL USES
- (3) AMENITY CENTER
- (4) Home Occupations
- (5) PARK/OPEN SPACE

#### c. Uses permitted upon review and approval of a SPECIFIC USE PERMIT

- (1) CIVIC BUILDING
- (2) SCHOOL, PRIMARY OR SECONDARY
- (3) SENIOR/ASSISTED LIVING FACILITY and/or SKILLED NURSING HOME FACILITY and any STRUCTURED PARKING
- (4) Special events

#### d. Prohibited uses

Any use that is not expressly set forth as a permitted use in this Subsection "VILLAGE RESIDENTIAL DISTRICT" or not considered incidental to the primary permitted use.

## 2. Building Lot Dimensional Standards

### a. Dimensional Table

Description	Single-Family Residential Detached	Single-Family Residential Attached
Building Type	Detached	Attached
Minimum Lot Area	4000 square feet	1200 square feet
Maximum Density	12 units per acre	24 units per acre
Minimum Lot Width	40 feet	20 feet
Minimum Lot Depth	90 feet	50 feet
Front Yard Setback (Alley-Loaded)	10 feet	6 feet
Front Yard Setback (Front-Loaded)	10 feet (building); 20 feet (garage door)	N/A
Side Yard Setback		
Interior Lot	5 feet	0 feet (side abutting another unit); 5 feet (side not abutting another unit)
Interior Lot (Zero Lot Line)	1 foot one side, 9 feet other side	N/A
Corner Lot	10 feet	10 feet
Minimum Rear Yard Setback	10 feet	5 feet
Maximum Building Height	2.5 story, 40 feet	3 story, 50 feet

### b. Additional Dimensional Standards

- (1) Zero lot line development shall have a five (5) foot maintenance easement within the lot that abuts the 1-foot side of adjacent lot for maintenance.
- (2) SINGLE-FAMILY ATTACHED RESIDENTIAL shall be alley-loaded with overall building length not to exceed two hundred (200) feet and a required building separation of not less than ten (10) feet between buildings.

### III. Architectural Standards

#### A. Architectural Standards – Village Urban Center District

##### 1. Building FAÇADE Materials

- a. Permitted primary building materials (which must cover not less than 85% of the area of the FAÇADE) shall be:
  - (1) MASONRY/STONE
  - (2) STUCCO/PLASTER
  - (3) Hardie-Plank™ equivalent or better siding
  - (4) Other primary building materials shall be required to obtain a SPECIAL EXCEPTION as a part of DETAILED SITE PLAN approval
- b. Accent building materials (no greater than 15% of the area of the FAÇADE) may be:
  - (1) Pre-cast masonry (for trim and cornice elements only)
  - (2) Gypsum reinforced fiber concrete (for trim elements only)
  - (3) Metal (for beams, lintels, trim elements and ornamentation only)
  - (4) Split-faced CMU block (only for piers, foundation walls and chimneys)
  - (5) EIFS

##### 2. Building AWNINGS and CANOPIES

- a. Materials, Illumination and Location
  - (1) AWNINGS and CANOPIES shall be architectural and constructed with fully opaque materials that complement the building to which they are attached; provided, however, no shiny or reflective materials are permitted.
  - (2) AWNINGS and CANOPIES shall not be internally illuminated in a manner that illuminates the AWNINGS or CANOPY material; provided, however, downward lighting limited to lighting the building FAÇADE, sidewalk areas, and seating areas, is permitted to be installed beneath AWNINGS and CANOPIES.

##### 3. Building Roofs

- a. Permitted Roof Materials
  - (1) Architectural asphalt shingles
  - (2) Tile, clay or concrete (faux clay)
  - (3) Slate (equivalent synthetic or better)
  - (4) Metal (standing seam, equivalent or better)
  - (5) Roofing material for flat roofs shall be monolithic Thermoplastic Polydefin (TPO) membrane or equivalent determined by BUILDING OFFICIAL
- b. Flat Roofs – roof material interior to the PARAPET shall not be visible from any adjacent ground-level areas.

##### 4. Building Mechanical, Underground Utilities, and Solid Waste Facilities

- a. Mechanical Equipment
  - (1) Ground level transformers, HVAC equipment, lift stations, utility meters, and other machinery shall be located at the rear of the lot where practical
  - (2) Roof mounted equipment shall be screened from view from the PUBLIC SPACE where practical.
- b. All electrical, phone, cable and other similar types of facilities shall be underground except for service boxes which shall be approved at the time of DETAILED SITE PLAN.



## c. Solid Waste Collection and Disposal

- (1) Location of solid waste facilities shall be approved at time of DETAILED SITE PLAN.
- (2) Solid waste facilities including trash compactors shall be screened by a MASONRY wall of a height that is at least one (1) foot above the height of the solid waste facility or trash compactor. Such screening wall shall be built with the same materials as used for the principal building, or an otherwise CITY approved material
- (3) Access to Solid waste facilities shall be provided by a metal gate or door equal in height of the wall and shall remain closed at all times when not being accessed for purpose of disposing solid waste into, or collecting for off-site disposal from, the facility.

## B. Architectural Standards – Village Residential District

## 1. Architectural Diversity

- a. Floor plans and front FAÇADES of the same PRIMARY BUILDING MATERIAL color for SINGLE-FAMILY DETACHED RESIDENTIAL shall be separated from one another by no fewer than ~~two~~three (23) lots for same floor plans and no fewer than ~~three~~four (34) lots for the same front FAÇADE.
- b. No combination of the same masonry color, mortar color, and sand color shall be repeated for SINGLE FAMILY DETACHED RESIDENTIAL buildings located on adjacent lots.
- c. The following list of architectural elements shall be incorporated into FAÇADES of SINGLE-FAMILY DETACHED RESIDENTIAL buildings with a choice of at least two (2) different elements ~~occurring no more often than every fourth (4<sup>th</sup>) lot~~ and be included in the DETAILED SITE PLAN:
  - (1) BALCONY (limited to rear balconies directly overlooking PARK/OPEN space)
  - (2) Front Porch (4:12 or greater roof pitch)(~~may occur more often than every 4<sup>th</sup> lot~~)
  - (3) Chimney
  - (4) Patio courtyard
  - (5) MASONRY, stone, or cast stone accents
  - (6) Double entry doors
  - (7) Covered entry
  - (8) DORMERS
  - (9) Cedar shutters
  - (10) Natural stone (30% front FAÇADE)
  - (11) 10:12 or greater roof pitch (~~may occur more often than every 4<sup>th</sup> lot~~)(pitch may be reduced for Front Porch – see above)
  - (12) Gables with architecture feature
  - (13) Arch top windows
  - (14) Circle top windows
  - (15) Stained wood columns

## 2. Building FAÇADES

FAÇADE treatments are those portions of a building's STREET FRONTAGE FAÇADE elevation extending from the ground to the roof that consists of a single layer or architectural expression.

- a. RESIDENTIAL buildings shall have a finished floor elevation of not less than 0.8 feet ~~one (1) foot~~ above the top of the front curb elevation.
- b. Wall openings shall not span vertically more than one story.

### 3. Building FAÇADE Materials

- a. Permitted primary building materials (which must cover not less than 85% of each area of the area of the FAÇADE) shall be:
  - (1) MASONRY/STONE
  - (2) STUCCO/PLASTER
  - (3) Hardie-Plank™ equivalent or better siding
  - (4) Other primary building materials shall be required to obtain a SPECIAL EXCEPTION as a part of SITE PLAN approval
- b. Accent building materials (which may cover no more than 15% of the area of the FAÇADE) may be:
  - (1) Pre-cast masonry (limited trim and cornice elements only)
  - (2) Gypsum reinforced fiber concrete (limited to trim elements only)
  - (3) Metal (limited to roofing, beams, lintels, trim elements and ornamentation only)
  - (4) Split-faced CMU block (but used only for piers, foundation walls and chimneys)
  - (5) EIFS
- c. Calculation of the percentage of the area of permitted building materials on a FAÇADE shall not include:
  - (1) The area occupied by windows and doors (including garage doors); and
  - (2) Other architectural features above the roofline, or areas not in plane with first-floor wall.

### 4. Building Windows

Windows shall conform to the following:

- a. Window Materials
  - (1) Specialty windows such as stained, opalescent, or glass block shall be permitted in limited amounts but in no case greater than fifteen (15) percent of the total window area of the FAÇADE.
  - (2) Solar screens are permitted only on FAÇADES not visible from the PUBLIC SPACE.
- b. Window Configurations
  - (1) The horizontal dimension of the window opening shall not exceed the vertical dimension except as provided below in subparagraphs 4. B. (2) and 4. B. (3) below.
  - (2) A maximum of five (5) windows may be mulled horizontally together to form a compound window which may be wider than it is tall if each grouping is separated by a mullion, column, pier or wall section that is not less than threeseven (73) inches wide.
  - (2)(3) An individual window may be wider than it is tall – if not mulled together as described herein subparagraph 4. B. (2) – but shall not exceed five (5) feet in width and four (4) feet in height. No combination of width and height dimensions for an individual window shall result in width exceeding height by more than three (3) feet.
- c. Alterations to these standards may be granted as part of a DETAILED SITE PLAN.

### 5. Building Roofs and PARAPETS

- a. Permitted Roof Materials
  - (1) 30-year dimensional shingles.
  - (2) Tile, clay or concrete (faux clay).
  - (3) Slate (equivalent synthetic or better).
  - (4) Metal on porches and accent roofs.

- (5) Roofing material for flat roofs shall be monolithic Thermoplastic Polydefin (TPO) membrane or equivalent determined by BUILDING OFFICIAL.
- (6) Roofing materials shall have a minimum 30-year rated warranty.

b. Authorized Roof Configurations

(1) Pitched Roofs

Hip and gable roofs shall be symmetrically pitched 8:12 or greater ~~with the exception of front porch roofs, which can be pitched 4:12 or greater.~~

(2) Flat Roofs

Roof material interior to the PARAPET shall not be visible from any adjacent ground-level areas.

c. Roofs, Dormers and Chimneys

(1) DORMERS shall be finished with permitted primary building materials; ~~and chimney chases above the roof structure shall be finished with a permitted PRIMARY-BUILDING-MATERIAL MASONRY/STONE only.~~

(2) Fireplace flues shall be enclosed and finished to be complimentary of the building's exterior.

Finished construction that provides for an exposed pre-fabricated metal flue piping (other than gas appliance vent stacks required by applicable construction codes) ~~is permissible~~ is prohibited, only if (i) finished to be complimentary of the building's exterior, (ii) vented through the roof structure (not a wall), (iii) designed, built, and located according to applicable construction codes, (iv) designed, built, and located to the rear of the building with limited visible appearance from the front of the building. Should said requirements not be satisfied in full, exposed pre-fabricated metal flue piping (other than gas appliance vent stacks required by applicable construction codes) is prohibited.

## 6. Underground Utilities

- a. All electrical, phone, cable and other similar types of facilities shall be underground except for service boxes which shall be approved at the time of DETAILED SITE PLAN.

## IV. Lighting, Parking and Signage Standards

### A. Lighting

#### 1. STREET Lights

- a. STREET LIGHTS shall be install in accordance with the following:
  - (1) MAJOR STREETS – spaced a maximum of one hundred and fifty feet (150) feet including one (1) at each intersection.
  - (2) MINOR STREETS – spaced a maximum of one hundred feet (100) feet including one (1) at each intersection.
  - (3) LOCAL STREETS – lighting shall be at each intersection.
- b. STREET LIGHTS shall not cast a perceptively unnatural spectrum of light (such as low-pressure sodium) or project light skyward (dark sky friendly lighting).

#### 2. VILLAGE URBAN CENTER Lighting

- a. An exterior Lighting Plan shall be approved as part of the DETAILED SITE PLAN for the VILLAGE URBAN CENTER.
- b. Lighting Standards
  - (1) Site lighting shall be of a design, height, and location to illuminate only the lot on which the light fixture is located unless illumination across lot lines is by a lighting fixture is authorized by the approved lighting plan included in the approved DETAILED SITE PLAN.
  - (2) Lighting elements shall not cast a clearly/perceptively unnatural spectrum of light (such as low pressure sodium). Lighting elements shall be limited to incandescent, metal halide, or halogen type fixtures.
  - (3) No flashing, traveling, animated, or intermittent lighting shall be visible from the exterior of any building whether such lighting is of temporary or long-term duration.

### B. Parking

#### 1. Parking Standards

- a. SINGLE-FAMILY RESIDENTIAL
  - (1) SINGLE-FAMILY RESIDENTIAL DETACHED and ATTACHED shall provide a minimum of two (2) garage parking spaces that shall remain usable for parking of two (2) passenger vehicles.
  - (2) Additional visitor parking (on or off street) shall be provided for SINGLE-FAMILY RESIDENTIAL uses at a rate of one (1) space per four (4) dwellings located within five hundred (500) feet for any SINGLE-FAMILY RESIDENTIAL lot providing parking for less than four (4) vehicles.
- b. MID-RISE RESIDENTIAL
  - (1) A minimum of 1.5 parking spaces shall be provided for each MID-RISE RESIDENTIAL unit.
  - (2) Additional onsite visitor parking shall be provided for MID-RISE RESIDENTIAL at a rate of one (1) space per six (6) units.
- c. VILLAGE URBAN CENTER
  - (1) For uses other than MID-RISE RESIDENTIAL, a Parking Plan prepared by a Texas professional engineer shall be submitted to the CITY that sets forth how the uses in the VILLAGE URBAN CENTER will accommodate parking demand. The Parking Plan shall be based on the parking standards set forth herein, or in the absence of a standard for a proposed use, shall be established as part of the approved DETAILED SITE PLAN.
  - (2) Required parking ratios for VILLAGE URBAN CENTER uses shall be:
    - (a) Office – 1 space per 300 square foot

- (b) Retail – 1 space per 250 square foot
- (c) Restaurant – 1 space per 150 square foot

## 2. On-Street Parking

- a. On-street parallel parking shall be eight (8) feet in depth and twenty-two (22) feet length.
- b. On-street parking may be counted towards meeting off-street parking requirements if authorized by the approved DETAILED SITE PLAN.

## C. Signage

### 1. Signage Plan

- a. A Comprehensive Sign Plan shall be submitted to the CITY as part of the DETAILED SITE PLAN.
- b. Only individual lettering on a VILLAGE URBAN CENTER signage may be internally lit.
- c. Lettering on AWNINGS and CANOPIES shall be limited to six (6) inches tall located only on vertically hanging fabric at curbside.

### 2. Prohibited or Limited Signs

- a. Billboards, off-premises, pole signs, marquees, animated, flashing or intermittent signs, and roof and painted building FAÇADE signs are prohibited.
- b. Portable or wheeled signs and advertising devices located outside any building shall be prohibited.

## V. Landscaping and Park/Open Space Standards

### A. Landscaping

#### 1. Landscaping – Trees

##### a. STREET TREES

- (1) MAJOR STREETS shall have STREET TREES planted along the PARKWAY with a spacing of no greater than one hundred (100) feet on center measured per BLOCK face or on a project by project basis, whichever is the smaller lineal dimension.
- (2) MINOR and LOCAL STREETS shall have STREET TREES planted along the PARKWAY with a spacing of no greater than seventy-five (75) feet on center measured per BLOCK face or on a project by project basis, whichever is the smaller lineal dimension.
- (3) For on-street parking spaces where bump-outs are utilized for parallel parking, one (1) STREET TREE shall be planted in each bump-out.
- (4) STREET TREES shall be at least three (3) caliper inches in diameter measured twelve (12) inches ~~four (4) feet~~ above grade and not less than ten (10) feet in height measured from the base of the main trunk showing at grade at time of planting.

##### b. VILLAGE URBAN CENTER TREES

- (1) Where the primary structure is located within twenty (20) feet of the front property line, the VILLAGE URBAN CENTER use shall be only responsible for planting STREET TREES in accordance with standards for STREET TREES on MAJOR STREETS.
- (2) Where the primary structure is located greater than twenty (20) feet from the front property line, the following tree planting shall be required:
  - (a) One tree at least three (3) caliper inches in diameter measured twelve (12) inches ~~four (4) feet~~ above grade and not less than ten (10) feet in height measured from the base of the main trunk showing at grade at time of planting for each fifty (50) feet of linear STREET FRONTAGE, which trees shall be planted within fifteen (15) feet of the front property line.
  - (b) Trees may be planted in groups with appropriate spacing for species.
  - (c) The trees required by this Subparagraph b. shall be in addition to the required STREET TREES.

##### c. SINGLE-FAMILY RESIDENTIAL TREES

###### (1) General

- (a) Required FRONT YARD TREES shall be in addition to the required STREET TREES
- (b) Required FRONT YARD TREES shall be at least three (3) inches in diameter measured twelve (12) inches ~~four (4) feet~~ above grade and not less than ten (10) feet in height measured from the base of the main trunk showing at grade at time of planting.

###### (2) Required FRONT YARD TREES

- (a) Lots having building setbacks of ten (10) feet or less no FRONT YARD TREES shall be required.
- (b) Lots having building setbacks of greater than ten (10) feet one (1) FRONT YARD TREES shall be required.

#### 2. Landscaping – Yards

##### a. VILLAGE URBAN CENTER Yards

- (1) Required Landscaping shall be approved as a part of DETAILED SITE PLAN approval.

##### b. SINGLE-FAMILY RESIDENTIAL LOTS Yards

- (1) For lots widths of forty (40) feet or greater, no fewer than four (4) five (5) gallon shrubs and twelve (12) one (1) gallon shrubs shall be planted.
- (2) For lots widths twenty-five (25) feet and less than forty (40) feet, no fewer than three (3) five (5) gallon shrubs and eight (8) one (1) gallon shrubs shall be planted.
- (3) For lots widths less than twenty-five (25) feet, no fewer than two (2) five (5) gallon shrubs and six (6) one (1) gallon shrubs shall be planted.
- (4) SINGLE-FAMILY RESIDENTIAL lots shall have full sod installed within any portion of the front yard and side yard abutting a STREET not covered by walkways, driveways, trees, shrubbery, ground cover or planting beds, or other approved landscape materials.
- (5) Decorative rocks shall be permitted in limited amounts and within areas between structures where plant material is difficult to maintain.

### 3. Landscaping – Parking Lots

- a. Five (5) linear feet of landscaped evergreen screening and/or masonry wall at a height of three (3) feet shall be planted between the STREET right-of-way and the parking area in all parking areas within a parking lot abutting a STREET.
- b. The following interior landscaping shall be planted in off-street, surface parking that contains twenty (20) or more parking spaces:
  - (1) Twenty (20) square feet of landscaping for each parking space shall be installed within the paved boundaries of the parking area.
  - (2) Landscaped islands shall be located at the ends of all parking rows and one (1) landscaped island for each twenty (20) parking spaces in a parking row shall be located on the interior of each parking row. The location the landscape islands within parking areas shall be approved as part of the DETAILED SITE PLAN
  - (3) No fewer than one (1) tree, three-inch (3) caliper inch minimum as measured ~~twelve (12) inches~~ ~~four (4) feet~~ above grade and not less than ten (10) feet in height measured from the base of the main trunk showing at grade at time of planting shall be planted in each parking lot landscaped island.
  - (4) Landscaped Islands shall be not less than six (6) feet wide, not less than ninety percent (90%) of the abutting parking space in length, and planted with approved ground cover.
  - (5) Landscaped areas shall be protected by a raised six (6) inch concrete curb with pavement placed no closer than three (3) feet from the trunk of a tree if no CITY-approved root barrier has been installed.

### 4. Landscaping – Fences/Walls

- a. Fences/Walls – General
  - (1) Metal fencing shall be ornamental metal, tubular steel or similar material with a consistent design and finished in black.
  - (2) MASONRY walls shall be constructed with MASONRY materials compatible with adjacent buildings.
  - (3) Wood fencing adjacent to STREETS shall be board-on-board with capping, pre-stained cedar, with steel posts.
  - (4) Fences and walls exceeding eight (8) feet in height are prohibited except to screen service areas of VILLAGE URBAN CENTER.
  - (5) Fence and wall materials and location shall be approved as part of the DETAILED SITE PLAN.
- b. Fencing/Walls – MAJOR STREETS
  - (1) WOOD fencing along MAJOR and MINOR STREETS is prohibited.
  - (2) MASONRY walls exceeding two (2) feet in height shall be designed with footings approved by a structural engineer or other appropriately licensed professional.
- c. Fences/Walls – RESIDENTIAL

- (1) No fence or wall shall be permitted within front yards except on corner lots, wherein approved ornamental metal fences, not exceeding five (5) feet in height, may be installed within the front yard not serving as the main entry point to the dwelling (i.e. the side yard along the STREET).
- (2) On RESIDENTIAL lots abutting or facing a PARK/OPEN SPACE, only ornamental metal fencing shall be used on the side of the lot facing the PARK/OPEN SPACE unless another material approved as part of the DETAILED SITE PLAN.
- (3) Fences and walls consisting of materials or placed in locations not otherwise authorized by this Subparagraph may be approved as part of the approved DETAILED SITE PLAN.

#### 5. Landscaping – Irrigation

Permanent automatic irrigation systems shall be designed, installed, and operated for all required landscaping.

#### 6. Landscaping – Completion

- a. No certificate of occupancy for any building on any lot may be issued until all required irrigation systems, trees and other plant materials have been installed and/or planted on the lot.
- b. Due to on-going drought conditions, the CITY may authorize delaying planting of new landscape materials, in which case, a certificate of occupancy may be issued.
- c. In the event of such authorized delay, all landscape materials shall be planted not later than the date provided in the authorization. Failure to install all landscaping by the date set forth in the delay authorization shall be a violation of this Ordinance.

### B. Park/Open Space

#### 1. PARK/OPEN SPACE

- a. VILLAGE URBAN CENTER
  - (1) VILLAGE URBAN CENTER uses, other than MID-RISE RESIDENTIAL, shall not be required to set aside a percentage of lot area for PARK/OPEN SPACE.
  - (2) MID-RISE RESIDENTIAL shall allocate not less than ten percent (10%) of the lot area to PARK/OPEN SPACE.
    - (a) Landscaped parking areas, walkways, yards and entries shall be considered PARK/OPEN SPACE.
    - (b) Areas designated as PARK/OPEN SPACE shall be shown on the approved DETAILED SITE PLAN.
- b. VILLAGE RESIDENTIAL
  - (1) Areas designated as PARK/OPEN SPACE shall be shown on all approved DETAILED SITE PLANS.
  - (2) PARK/OPEN SPACE shall be maintained by either a property or homeowners association or by the CITY if designated public PARK/OPEN SPACE.

#### 2. PEDESTRIAN PATHWAYS

- c. PEDESTRIAN PATHWAYS shall be a minimum of six (6) feet in width on MAJOR and MINOR STREETS and five (5) feet on LOCAL STREETS.
- d. PEDESTRIAN PATHWAYS shall be installed at all required locations on a lot prior to issuance of a certificate of occupancy of the first building constructed on the lot or, if the issuance of a certificate of occupancy is required, the commencement of the provision of utilities to any building on the lot.



## VI. Definitions

### A. Purpose

The words and phrases as used in this ORDINANCE shall have the following meanings unless the context of such use clearly indicates otherwise. Words and phrases not defined within the Definitions, but which are defined in the City of Sherman's Zoning Ordinance shall have the meaning provided such words and phrases in the Zoning Ordinance. Wherever a word or phrases is printed in CAPITAL LETTERS, it is being used as defined herein.

### B. Terms Defined

**ACCESSORY BUILDING OR STRUCTURE (RESIDENTIAL DISTRICT)** – A subordinate building or structure, detached and used for a purpose customarily incidental to the main structure such as a private garage for automobile storage, tool house, lathe or greenhouse as a hobby (no business), home workshop, children's playhouse, storage house, garden shelter or swimming pool, but not involving the conduct of a business.

**ACCESSORY USE (see USE).**

**AFFILIATED RESIDENTIAL USES (see USE).**

**ALLEY** – A public space or drive which affords secondary means of access to abutting property.

**AMENITY CENTER** – An OPEN SPACE area developed as a recreational center for the use by VILLAGE residents and their guests that may include pools, hot tubs, meeting rooms, workout spaces, bathrooms, playgrounds and similar uses.

**AWNING** – A cantilevered, projected or suspended cover over the sidewalk portion of the PUBLIC SPACE. This also includes roof-like coverings, usually of canvas or metal and often adjustable, placed over the sidewalk, windows, or doors to provide protection from sun and rain.

**BALCONY** – An exterior platform attached to the building FAÇADE extending outward from an interior room located above a GROUND STORY.

**BLOCK** – An area enclosed by streets and occupied by or intended for buildings; or if said word is used as a term of measurement, it shall mean the full length along the street between the intersection of two streets.

**BUILDING HEIGHT** – For VILLAGE URBAN CENTER uses, BUILDING HEIGHT is measured in STORIES; for SINGLE-FAMILY RESIDENTIAL uses, BUILDING HEIGHT is measured from the existing grade to the midpoint of a gabled roof line or the top of the PARAPET or mansard roof.

**BUILDING OFFICIAL** – The official appointed to enforce the ZONING ORDINANCE.

**CANOPY** – An architectural projection of canvas or similar material that provides weather protection over an area and is supported by the building to which it is attached and at the outer end by not less than two posts.

**CITY** – City of Sherman, Texas.

**CIVIC BUILDING** – Publicly- or privately-owned buildings that are open to the public for non-COMMERCIAL purposes.

**COMMERCIAL INDOOR AMUSEMENT (see USE).**

**COMMERCIAL USE (see USE).**

**CONCEPTUAL PLAN** – Proposed land uses as shown on the CONCEPTUAL PLAN.

**DETAILED SITE PLAN** – A site plan approved by the City of Sherman.

### DEVELOPMENT DISTRICTS

**VILLAGE URBAN CENTER** – Land designated on the DEVELOPMENT DISTRICT MAP as VILLAGE URBAN CENTER intended for more flexible development standards allowing for VILLAGE URBAN CENTER uses ranging from single lot projects such as big-box stores and hotels to larger-scale shopping centers and business centers as well as MID-

**RISE RESIDENTIAL** uses.

**VILLAGE RESIDENTIAL DISTRICT** – Land designated on the DEVELOPMENT DISTRICT MAP as RESIDENTIAL intended for a mix of DETACHED and ATTACHED RESIDENTIAL.

**DORMER** – Small, roofed ancillary structures with windows providing light and air to habitable space within the roof.

**EXTERIOR INSULATION AND FINISH SYSTEM** or “EIFS” - a no-load bearing, exterior wall cladding system that consists of an insulation board attached either adhesively or mechanically, or both, to the substrate; an integrally reinforced base coat; and a textured protective finish coat.

**FAÇADE** – Exterior building face.

**FENESTRATION** – Openings in the building wall allowing light and views between interior and exterior measured as glass area.

**FRONT SETBACK LINE** – The line at which the building FAÇADE shall be located adjacent to or behind.

**FRONT YARD TREE** (see TREE, FRONT YARD).

**HEIGHT** (see BUILDING HEIGHT)

**HOTEL, FULL SERVICE** – An establishment offering temporary lodging facilities consisting of regular rooms or suites suitable for short-term stays with one or more restaurants and lounges, food and beverage catering, conference meeting rooms, recreational amenities, and STRUCTURED PARKING.

**HOTEL, LIMITED SERVICE** – An establishment offering temporary lodging facilities consisting of regular rooms or suites suitable for short-term stays that may offer a business center, pool/whirlpool, workout room, a meeting room and a lobby marketplace for snacks and beverages; the establishment may offer restaurant services geared to primarily hotel guests.

**LOT, CORNER** – A lot that is bounded by intersecting STREETS.

**LOT COVERAGE** – The percentage of the total area of a lot occupied by the base (first story or floor) of buildings located on the lot or the area determined as the maximum cross-sectional area of the building; eaves, drives, uncovered patios/porches, sidewalk, and similar improvements are excluded from LOT COVERAGE computations.

**LOT LINE** – The lines bounding a lot.

**LOT WIDTH** – The width of the lot as measured at the FRONT SETBACK LINE.

**MAJOR STREET** (see STREET, MAJOR).

**MASONRY/STONE** – Defined as construction material three (3) inches or thicker composed of natural stone, kiln fired clay brick, decorative concrete block or other masonry material approved by the CITY'S BUILDING OFFICIAL.

**MINOR STREET** (see STREET, MINOR).

**OFFICE BUILDING** – A building used to house OFFICE USES.

**PARAPET** – A low wall projecting from the edge of a platform, terrace, or roof.

**PARAPET HEIGHT** – Where used to limit building height, PARAPET HEIGHT is the distance measured at the top of the parapet, including any coping.

**PARK** (see OPEN SPACE).

**PARK/OPEN SPACE** – Land and water designed for active and/or passive recreational enjoyment, but also including small vegetative spaces, flood plains, AMENITY CENTERS, development entries, PEDESTRIAN PATHWAYS; areas located within a SINGLE-FAMILY RESIDENTIAL LOT or within a public right-of-way shall not be considered PARK/OPEN SPACE.

**PARKWAY** – An area located immediately between the street curb and sidewalk in which STREET TREES and street lights and other such infrastructure are placed.

**PEDESTRIAN PATHWAY** – A paved walkway/sidewalk that provides pedestrian access throughout a community to VILLAGE URBAN CENTER and RESIDENTIAL uses; PEDESTRIAN PATHWAYS are not considered appropriate for bicycle use.

**PLANNING AND ZONING COMMISSION** – The Planning and Zoning Commission of the City of Sherman, Texas.

**PUBLIC SPACE** – The public domain commonly referred to as the public STREETS, ALLEYS and rights-of-way but can include travel lanes, PARKWAYS, PEDESTRIAN PATHWAY, and PARK/OPEN SPACE.

**REAR LOT LINES** – Lot lines located at the rear of the property and often abutting ALLEYS.

**RETAIL** (see USE).

**RESIDENTIAL** (see USE)

**SCHOOL, PRIMARY OR SECONDARY** – A school operated by an independent school district, religious entity or private corporation providing a kindergarten, elementary and/or secondary curriculum.

**SCHOOL, COLLEGE OR UNIVERSITY** – An academic institution of higher learning, accredited or recognized by the State and offering a program or series of programs of academic study.

**SENIOR/ASSISTED LIVING FACILITY** – A residential living facility for older adults that may include independent living arrangements designed exclusively for seniors, generally those 55 years or older, to live independently within an apartment-style facility or freestanding home; it may also include, as an ACCESSORY USE, living facilities that offer a larger range of services for residents as their level of care expands, as long as the resident does not need skilled 24-hour nursing care.

**SKILLED NURSING HOME FACILITY** – State-licensed long-term care residential living facility offering 24-hour medical care provided by registered nurses, licensed practical nurses and/or certified nurse assistants for residents who are totally dependent on nursing care or short-term rehabilitation between hospital and home.

**STORY** – That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. It is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

**STORY, GROUND** – The first level of a building at or above grade.

**STREET** – A public thoroughfare used for vehicular traffic usually within dedicated right-of-way; this definition does not include ALLEYS, CITY fire lanes, driveways, or access aisles or easements.

**STREET LIGHT** – A luminaire installed on both sides of a STREET within the public right-of-way.

**STREET, MAJOR** – A STREET having four or more travel lanes with rights-of-way greater than seventy (70) feet.

**STREET, MINOR** – A STREET having three or less travel lanes with rights-of-way exceeding sixty (60) feet but not exceeding seventy (70) feet.

**STREET, LOCAL** – A STREET having two travel lanes with rights-of-way sixty (60) feet or less.

**STREET FRONTAGE** – That portion of the lot or building that is coincident with the FRONT SETBACK LINE.

**STREET TREE** (see TREE, STREET).

**STUCCO/PLASTER** – Stucco/Plaster material shall only be considered as meeting the masonry requirement when applied using a 3-step process over diamond metal lath mesh to a 7/8-inch thickness or by other processes producing comparable cement stucco finish with equal or greater strength, durability, and fire resistive specifications.

**TREE, STREET** – A tree planted in the PARKWAY.

**TREE, FRONT YARD** – A tree planted in a front yard area.

## USES

**ACCESSORY USE** – A use of land or building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use; within a RESIDENTIAL DISTRICT this may include a pool, children's play equipment, gazebo, picnic table, etc.

**AFFILIATED RESIDENTIAL USE** – A use intended for the residents and their guests of a RESIDENTIAL use that includes a leasing office, fitness center, game room, laundry, pool, amenity center and other residential-related services and uses.

**BUSINESS SERVICE USE** – Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, including but not limited to advertising and mailing; building maintenance; employment service; management and consulting services; equipment rental and leasing (does not include outside storage or heavy construction equipment); commercial research; development and testing; photo finishing; and supplies services.

**CIVIC USE** – Community uses including the following: meeting halls; libraries; schools (kindergarten through college); police and fire stations; post offices (retail operations only, no primary distribution facilities); places of worship; museums; cultural, visual and performing art centers; transit centers; government functions open to the public; and, other similar uses.

**COMMERCIAL INDOOR AMUSEMENT USE** – Commercial establishments wholly contained within a building that provide amusement, entertainment or games of skill for a fee or admission charge including, but not limited to, billiards, bowling, video or game arcades, movie theaters, and skating rinks.

**COMMERCIAL USE** – Includes BUSINESS SERVICES, OFFICES, PERSONAL SERVICES, RETAIL SERVICES, RETAIL SPECIALTY USES, RETAIL TRADE USES, STUDIO USES, and RECREATIONAL LAGOON.

**PERSONAL SERVICE USE** – Establishments primarily engaged in providing services involving the care of a person or his or her apparel, including laundry, cleaning and garment services, garment pressing, coin operated laundries, beauty shops, barber shops, shoe repair, reducing salons and health clubs, clothing rental, doctors, dentists, chiropractors, veterinarians, etc.

**OFFICE USE** – Includes, but are not limited to lawyers, engineers, architects, landscape architects, accountants, insurance agencies, economic consultants, general business offices, or other similar professions.

**RECREATIONAL LAGOON** – A large, artificially-created recreational water body for swimming and other water-related activities (can be a COMMERCIAL or CIVIC use).

**RESIDENTIAL USE** – A range of housing uses that encompass SINGLE-FAMILY and MID-RISE uses, and SENIOR/ASSISTED and/or SKILLED NURSING HOME FACILITIES.

**RESIDENTIAL, SINGLE-FAMILY ATTACHED** – A SINGLE-FAMILY RESIDENTIAL use constructed in a group of two (2) or more attached units separated by property lines in which each unit extends from foundation to roof.

**RESIDENTIAL, SINGLE-FAMILY DETACHED** – A free-standing, SINGLE-FAMILY RESIDENTIAL use occupying a single lot not sharing any walls in common with adjacent SINGLE-FAMILY RESIDENTIAL use.

**RESIDENTIAL, MID-RISE** – A multi-storied residential building containing multiple separate housing units above one another for residential purposes within one building or complex, commonly referred to as “apartments;” this definition does not include a HOTEL or any short-term stay facility (stays of less than six months) but may include ground-floor commercial.

**RESIDENTIAL, SINGLE-FAMILY** – A residential dwelling occupied by persons living as a single household unit; this definition includes DETACHED and ATTACHED residential uses but does not include MID-RISE RESIDENTIAL.

**RETAIL SERVICE USE** – Establishments providing services, as opposed to products, to the general public, including restaurants, LIMITED and FULL SERVICE HOTELS, finance, real estate and insurance, travel agencies, health and educational services, and galleries.

**RETAIL SPECIALTY USE** – Include, but are not limited to the sale of gifts, antiques, flowers, books, jewelry, wearing apparel or craft shops making articles exclusively for sale at retail on the premises. Establishments selling used goods or merchandise and retail store sales consisting primarily of specialty and novelty items as defined by City of Sherman Resolution No. 77-028 are specifically excluded.

**VI. Definitions**

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**RETAIL TRADE USE** – Establishments engaged in selling new goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. Establishments primarily engaged in the selling of used goods or merchandise are specifically excluded.

**STUDIO USE** – Includes, but is not limited to dance, art, music, photography, radio or television and specifically excluding any type of sexually oriented business.

**VILLAGE URBAN CENTER USE** – Any use that is defined herein as a MID-RISE RESIDENTIAL, BUSINESS SERVICE, OFFICE, PERSONAL SERVICE, RETAIL SERVICE, RETAIL SPECIALTY, RETAIL TRADE, and STUDIO uses but specifically excluding any uses prohibited by this ORDINANCE.

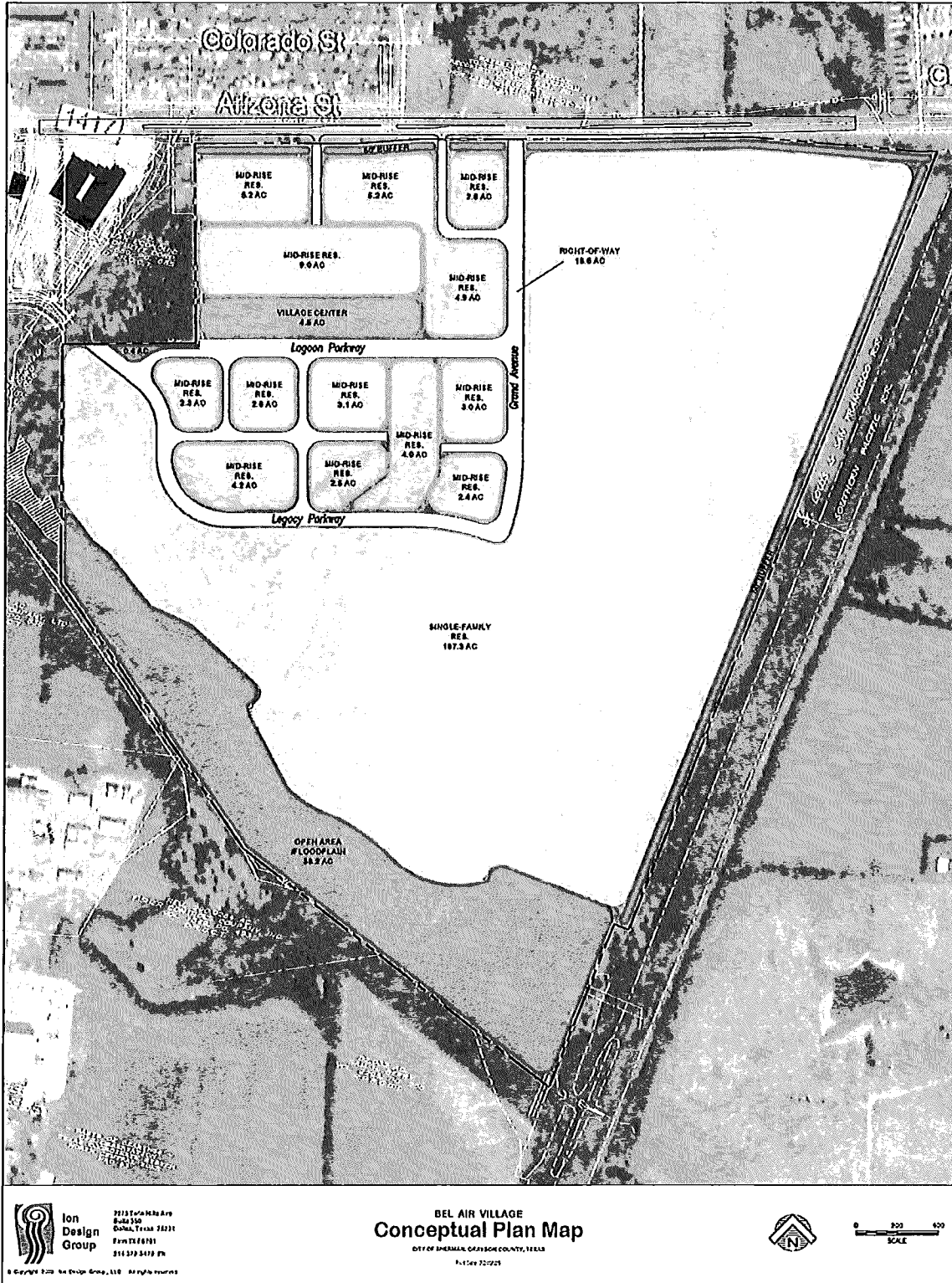
**VILLAGE URBAN CENTER USE (see USE).**

**ZONING ORDINANCE** – The Zoning Ordinance of the City of Sherman, as amended from time to time, including any future codifications.

*JK*

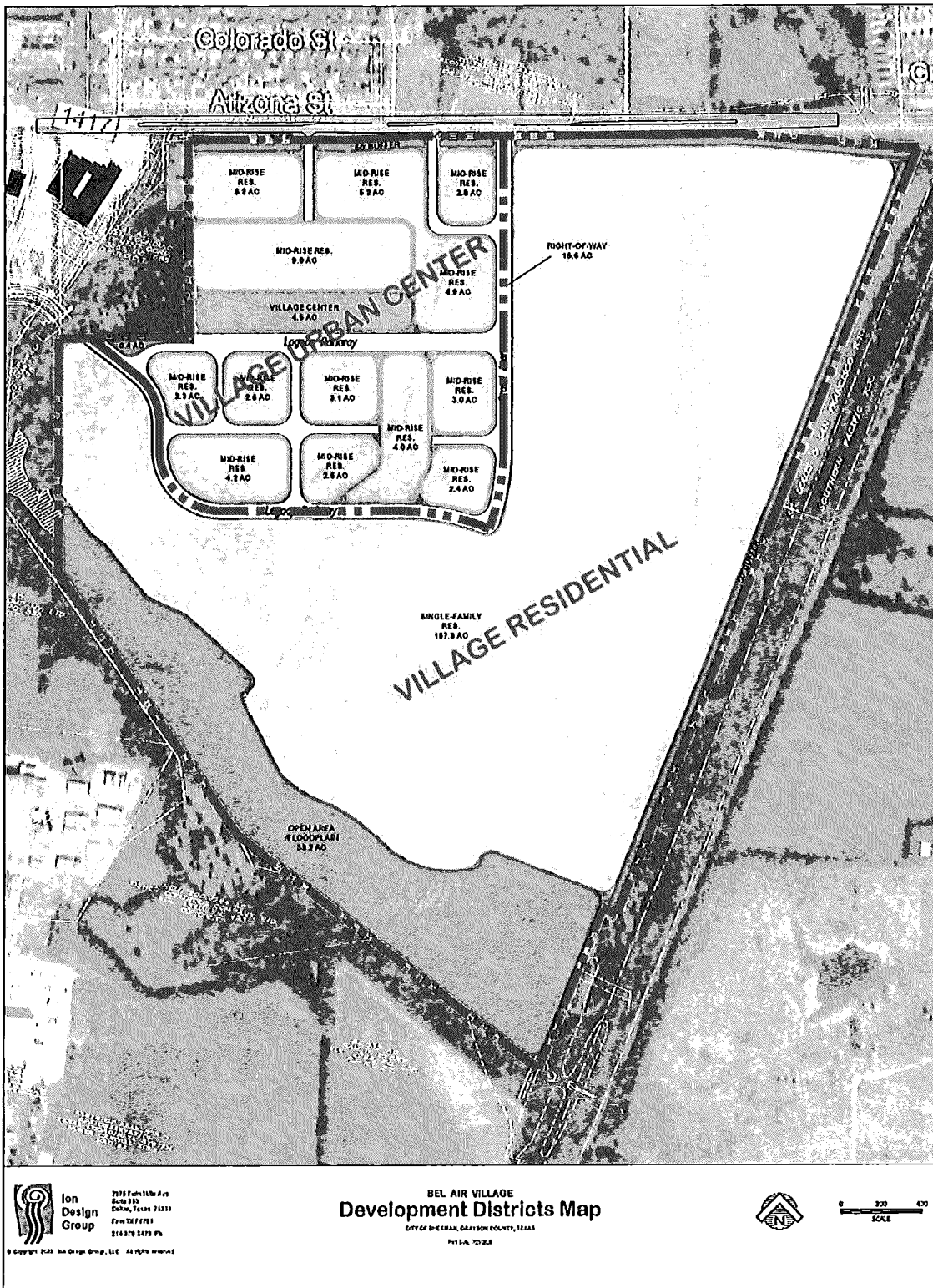
# VII. Appendices

## A. Appendix – Conceptual Plan Map



RA

B. Appendix -- Development Districts Map



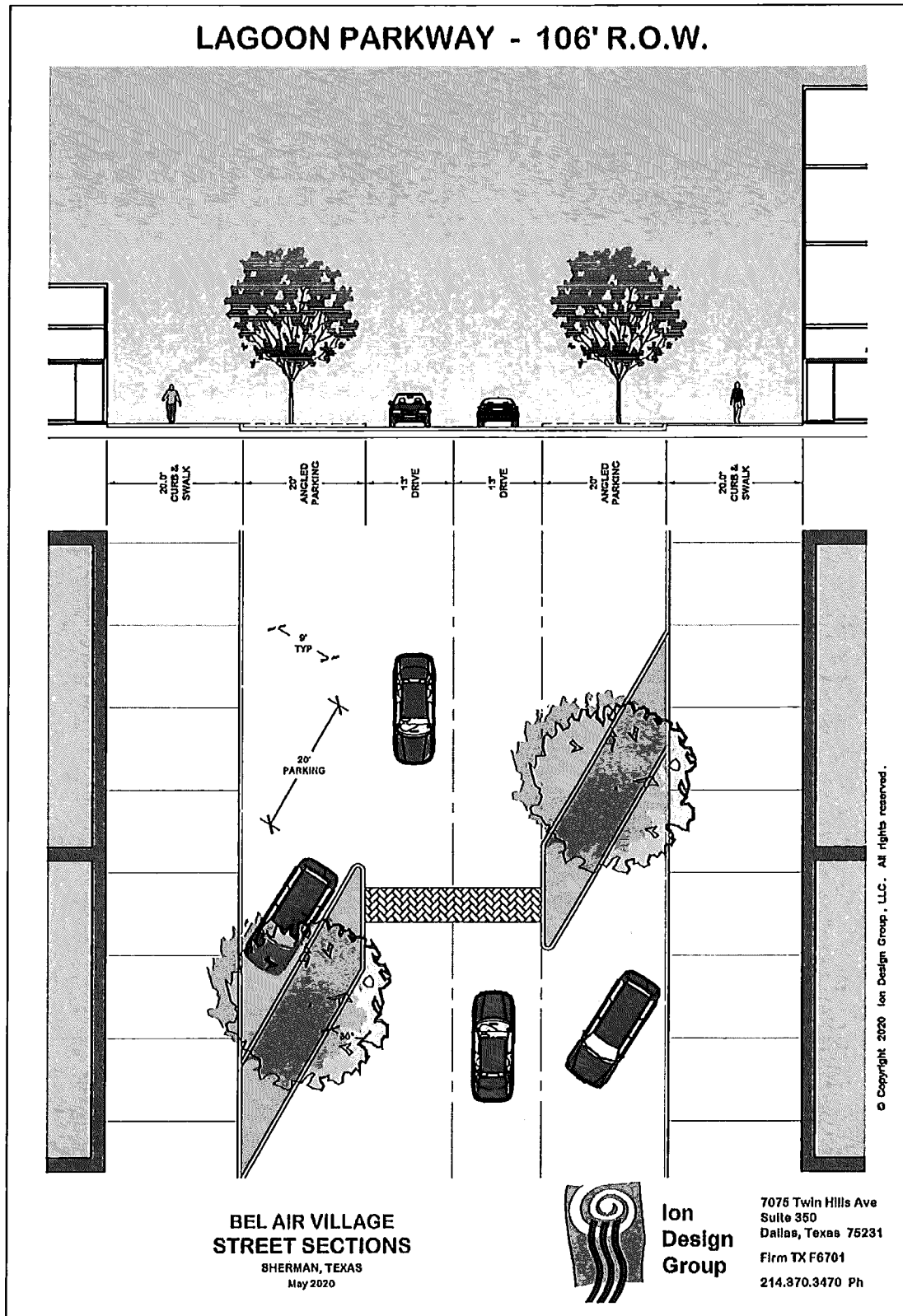

**Ion Design Group**  
 2718 Foothills Ave  
 Suite 300  
 Dallas, Texas 75231  
 Phone: 214.721.1781  
 Fax: 214.721.1782  
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**BEL AIR VILLAGE**  
**Development Districts Map**  
 CITY OF DALLAS, DALLAS COUNTY, TEXAS  
 PLAN 16-10268

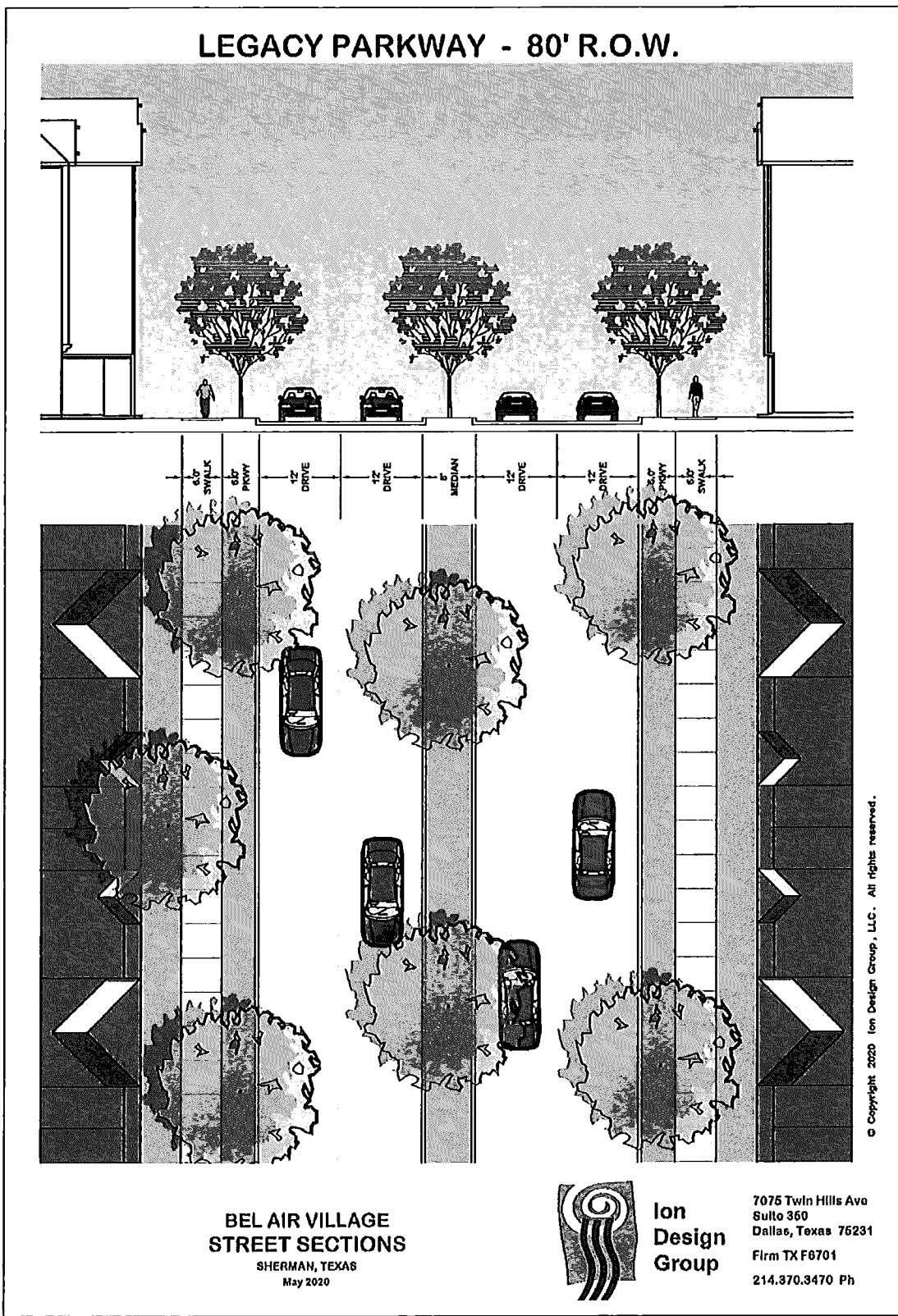
  
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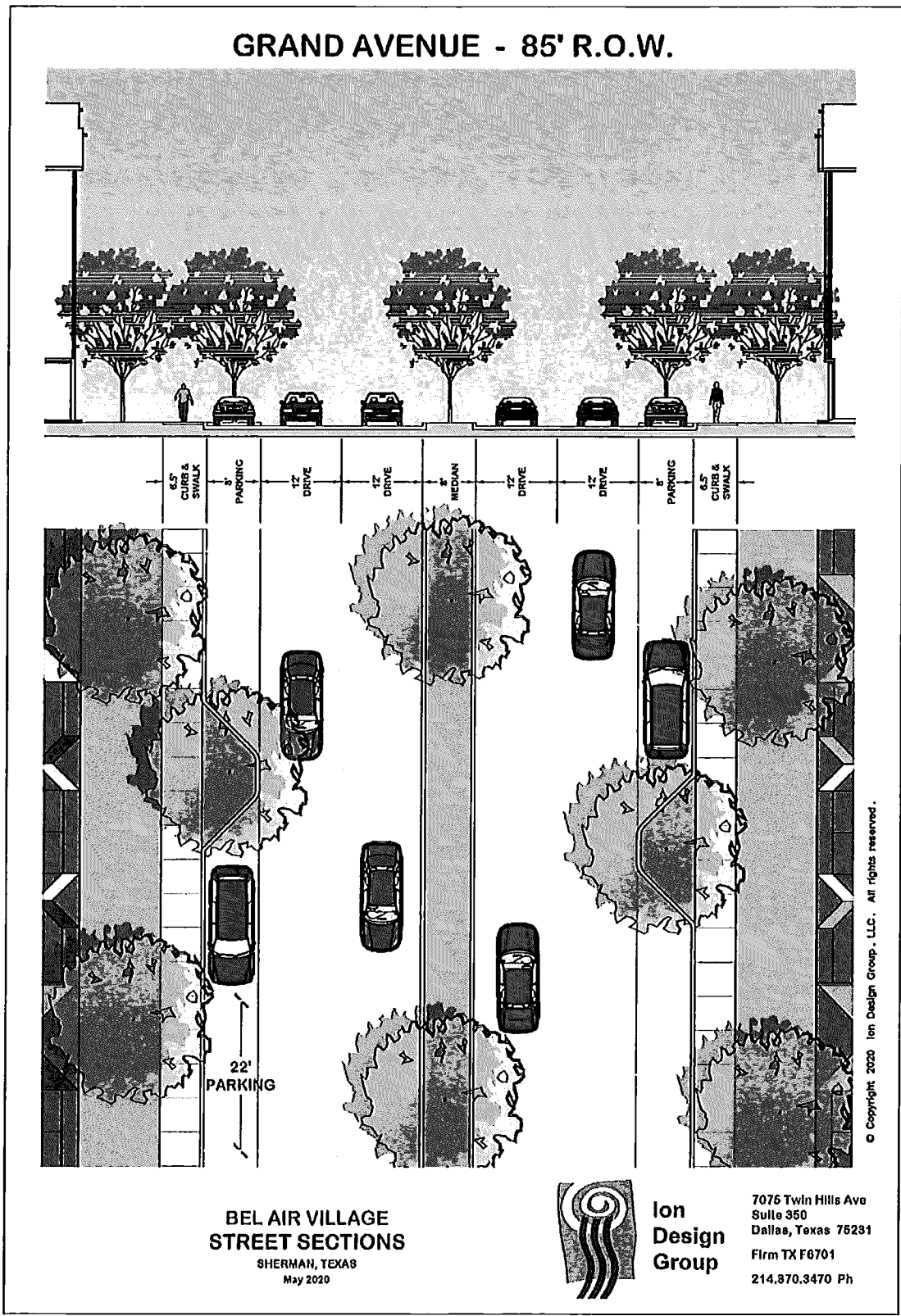
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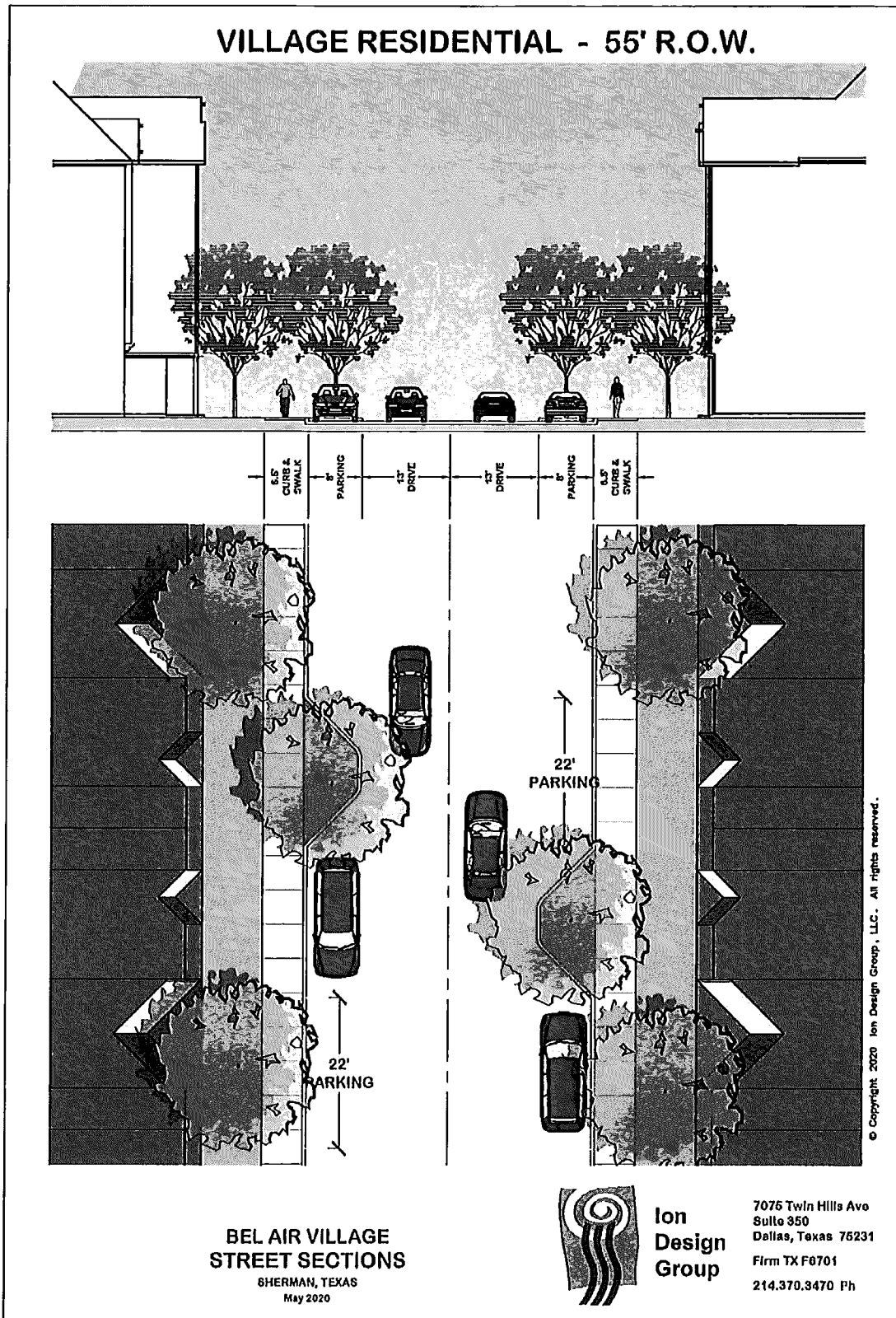
C. Appendix – Street Cross Sections











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**EXHIBIT D**

**BEL AIR VILLAGE, SHERMAN, TEXAS**  
**LEGAL DESCRIPTION OF THE RECREATIONAL FACILITY LAND**

[to be attached]

## RECREATIONAL FACILITY LAND

**BEING** a tract of land situated in the Sharrod Dunman Survey, Abstract No. 329, City of Sherman, Grayson County, Texas and being a portion of a called 245.83-acre tract of land described in a Special Warranty Deed to Terra Perpetua, LLC, recorded in Instrument No. 2018-3686 of the Official Public Records of Grayson County, Texas, and being more particularly described as follows:

**COMMENCING** at a 1/2-inch iron rod found for the westerly, northwest corner of said 245.83-acre tract, same being the southwest corner of a called 13.41-acre tract of land described in a Warranty Deed to the Sherman Economic Development Corporation, recorded in Volume 5680, Page 685 of the Official Public Records of Grayson County, Texas, same also being on the easterly line of a called 12.166-acre tract of land described in a Warranty Deed to Ramanujam K. Vangipuram and Samrajyam Kolluru, recorded in Volume 5948, Page 638 of the Official Public Records of Grayson County, Texas;

**THENCE** North 74°26'23" East, along the southerly line of said 13.41-acre tract and a northerly line of said 245.83-acre tract, a distance of 641.70 feet to the southeast corner of said 13.41-acre tract, common to an ell corner of said 245.83-acre tract;

**THENCE** North 15°21'02" West, along the easterly line of said 13.41-acre tract and a westerly line of said 245.83-acre tract, a distance of 52.31 feet to the **POINT OF BEGINNING** of the herein described tract;

**THENCE** North 15°21'02" West, continuing along the easterly line of said 13.41-acre tract and a westerly line of said 245.83-acre tract, a distance of 555.01 feet to a point for corner;

**THENCE** North 75°02'53" East, departing the easterly line of said 13.41-acre tract and a westerly line of said 245.83-acre tract, crossing said 245.83-acre tract, a distance of 1,006.93 feet to a point for corner;

**THENCE** South 14°57'07" East, continuing across said 245.83-acre tract, a distance of 16.00 feet to a point for corner;

**THENCE** North 75°02'53" East, continuing across said 245.83-acre tract, a distance of 25.50 feet to a point for corner;

**THENCE** South 14°57'07" East, continuing across said 245.83-acre tract, a distance of 82.00 feet to the beginning of a tangent curve to the left with a radius of 61.00 feet, a central angle of 70°51'38", and a chord bearing and distance of South 50°22'56" East, 70.72 feet;

**THENCE** in a southeasterly direction, continuing across said 245.83-acre tract, with said tangent curve to the left, an arc distance of 75.44 feet to a point for corner;

**THENCE** South 14°57'07" East, continuing across said 245.83-acre tract, a distance of 399.37 feet to a point for corner;

**THENCE** South 75°02'53" West, continuing across said 245.83-acre tract, a distance of 1,069.57 feet to the **POINT OF BEGINNING** and containing 13.511 acres (588,533 square feet) of land, more or less.